

tive, if there had been a constructive delivery to defendant Kerr, they claimed the price of the goods from him.

D. L. McCarthy, for defendant company.

C. A. Moss, for defendant Kerr.

W. A. Sadler, for plaintiff.

THE MASTER held that, as plaintiffs claimed as owners of the machines as against defendant company, and against defendant Kerr on the theory that he was the owner, the case was not within the scope of Rule 186. *Rivers v. Clark*, L. R. 5 Eq. at p. 97, applied and followed. *Quigly v. Waterloo Mfg. Co.*, 1 O. L. R. 606, *Evans v. Jaffray*, ib. 614, and cases therein referred to, considered. Order made staying proceedings until plaintiffs elect as against which defendant they will proceed. If they abandon the action against defendant company, the action will be dismissed with costs, including the costs of this application. But, if they abandon against defendant Kerr, the action as against him will be dismissed, and the costs of this application will be to defendant company in any event.

STREET, J.

APRIL 4TH, 1903.

TRIAL.

SMART v. DANA.

Bond—Payment out of Fees of Office—Amount Stated in Patent—Sheriff—"Revenues"—Disbursements—Allowances Received as Assignee for Creditors and as Returning Officer—Penalty—Judgment—Breach—Damages—Assessment—Future Damages.

Action by the former sheriff of the united counties of Leeds and Grenville against George A. Dana, the present sheriff of these counties, and W. H. Comstock and James Cumming, upon a bond given by Dana as principal and the other two defendants as sureties, for \$10,000. By letters patent under the great seal of the Province dated 1st November, 1898, Dana was appointed sheriff "in the room and stead of James Smart, Esquire, resigned," "subject to the condition that you, the said George Augustus Dana, shall during your occupancy of the said office . . . pay to the said James Smart out of the revenues of the said office, so long as the said James Smart shall live, at the rate of \$1,200 per annum . . . the said James Smart having held the said office for many years, and, owing to the infir-