

BOYD, C.]

[ March 16.

## HOGABOOM v. GILLIES.

*Interpleader issue—"Action"—Rule 641 (c)—Leave to discontinue—Costs.*

An interpleader proceeding is not an action; and Rule 641 (c), which enables the court to "order the action to be discontinued," does not apply to interpleader issues.

*Hamlyn v. Bettely*, 6 Q.B.D. 63, and *Re Dyson*, 65 L.T. 488, followed.

*Semble*, that the execution creditor can abandon the seizure or the prosecution of the issue, but only on the terms of answering all costs.

*C. Millar* for the execution creditor.

*J. A. McDonald* for the claimant.

FERGUSON, J.]

[ March 22.

## THIBAudeau v. HERBERT.

*Security for costs—Order for—Setting aside—Admission of debt—Rule 1251.*

Where there was an admission by the defendant of the debt sued for, and the writ of summons was specially indorsed so as to enable the plaintiffs to move for judgment under Rule 739, an order for security for costs obtained by the defendant on *principe*, after appearance, the plaintiffs being out of the jurisdiction, was set aside, notwithstanding that the plaintiffs might have paid \$50 into court under Rule 1251 and proceeded to move for judgment.

*Doer v. Rand*, 10 P.R. 165, followed.

*Payne v. Newberry*, 13 P.R. 354, not followed.

*N. McCrimmon* for the plaintiffs

*I. H. Spence* for the defendant.

## MANITOBA.

## COURT OF QUEEN'S BENCH.

BAIN, J.]

[ March 8.

## ROBERTSON v. WRENN.

*Bill of sale—Defective description—Change of possession—Knowledge of, by creditor.*

This was an interpleader to try the title of certain chattels claimed by the plaintiff under a chattel mortgage made by one Bell to the plaintiff's husband, and by him assigned to the plaintiff. The defendant claimed the goods under an execution against the goods of Bell and the plaintiff's husband, F. W. Robertson.

Robertson and Bell had been carrying on a livery business in partnership, and on the 27th of January, 1894, Robertson sold and assigned his interest in the horses and other chattels used in the business to Bell, and gave him a bill of sale of everything for \$2,425, and on the same day Bell gave to Robertson