

FERGUSON, J.]

BANK OF HAMILTON v. ESSERY.

[March 7.

Judgment debtor—Examination of—Questions relating to disposition of goods of debtor after sale—Advice of counsel—Examiner's ruling.

Where the defendant had, before judgment against him, executed a bill of sale of his stock-in-trade, which had been registered ;

Held, that upon his examination as a judgment debtor he was compellable to answer questions in respect to the dealings with such property after the date of the bill of sale ; and that he could not shelter himself behind the advice of counsel.

Held, also, that notwithstanding that the examiner had ruled that the judgment debtor was not obliged to answer certain questions and that the ruling had not been appealed against, an order might be made directing the defendant to attend again for examination.

A. McLean Macdonell for the plaintiffs.

James Reeve, Q.C., for the defendant.

Court of Appeal.]

BLAIR v. ASSELSTINE.

[March 7.

Revivor—Decease of plaintiff after verdict—Action before judgment—Assignment of verdict—Revivor in name of assignee—Action of tort—Appeal.

In an action for malicious prosecution, the jury found a general verdict for the plaintiff with damages. The defendant moved to set aside the verdict, etc., and, his motion being dismissed, gave security for the purpose of an appeal, after which the plaintiff assigned "the verdict or judgment" to his daughter, and died about three months later. No judgment had been entered, nor was there any order or direction of the judge for the entry of judgment. By an *ex parte* order, made on the application of the next friend of the plaintiff's daughter after his death, the assignment to her was recited, and it was ordered that the action should stand revived in her name.

Held, that the action could not be revived or continued by or against the daughter, she not being the assignee of a judgment, and the cause of action not being one capable of being assigned to her so as to sue for it in her own name ; and the defendant's appeal could not be heard in the absence of the legal personal representative of the plaintiff.

Dougall, Q.C., and *Clute, Q.C.*, for the appellant.

J. Parker Thomas for the respondent.

BOYD, C.]

SMITH v. SILVERTHORNE.

[March 14.

Security for costs—Several plaintiffs—Only one in jurisdiction—Joint action.

Action by the widow, as dowress, and the children as heirs-at-law, of a deceased person, to recover possession of land alleged to be the property of the deceased.