

MUNICIPAL LAW.

See CERTIORARI—CONSTITUTIONAL LAW.

NEGLIGENCE.

See MASTER AND SERVANT.

PARTIES.

Practice—*Action to set Aside Conveyance—Parties.*] — The execution debtor is not a necessary nor a proper party to an action by execution creditors to set aside conveyances to his co-defendant as fraudulent and void as against them, no relief being claimed against him except costs. Participation in fraud is not a sufficient ground for adding a party for purpose of rendering him liable for costs. *McDonald et al. v. Dunlop* (No. 1). (Scott, J., 1895), p. 177.

See LAND TITLES ACT.

PAYMENT INTO COURT.

See BANKRUPTCY AND INSOLVENCY.

PENALTY.

See SALE OF LAND—CONTRACT.

PLEADING.

Practice—*Pleading—Defence—Embarrassing Pleading—Reasonable Cause of Action or Defence—Striking Out.*]—*McEwan v. The North-West Coal and Navigation Co.*, 1 Terr. L. R. 203, followed. Matter in a statement of defence, attacked as tending to prejudice, embarrass or delay, will be struck out less freely than in a statement of claim. Statement of claim set up a partnership between plaintiff D. and defendant P., a mortgage by D. & P. of partnership goods to C. and a mortgage of P.'s interest therein to C. Bros. The first paragraph of the defence of C. Bros. denied the partnership. The second paragraph set up that, "whatever relationship existed" between D. & P., that

relationship was put an end to and the entire ownership of the goods mortgaged then vested in D. free from any interest of P.:—Held that the second paragraph was embarrassing inasmuch as, while it assumed some relationship to have existed between D. and P., and alleged it to have been put an end to and the property to have vested in D., it did not allege (1) the nature of the relationship, (2) the mode in which the relationship had been terminated and the property become vested in D., i.e., whether by operation or implication of law or by agreement of dissolution or other agreement stating the nature of such other agreement. The 7th paragraph of the defence of C. Bros. alleged that, even if the mortgage to C. constituted a partnership liability, C. Bros. had a separate claim against D. before C. acquired any such partnership liability:—Held, that paragraph 7 was embarrassing inasmuch as it did not allege that the separate claim of C. Bros. was the same as that for which they held the chattel mortgage, and as if that was not the case the whole paragraph was entirely immaterial. The 8th paragraph of the defence alleged that the mortgage to C. was void, and did not comply with the Bills of Sale Ordinance and no affidavit of bona fides accompanied it:—Held, that the 8th paragraph was embarrassing inasmuch as it was uncertain whether it intended that the mortgage was void on the ground only of the absence of an affidavit of bona fides, or as well for non-compliance with other requirements of the Bills of Sale Ordinance, or on grounds apart from that Ordinance. *Davis et al. v. Patrick et al.* (Ct. 1893), p. 9.

Pleading—*Defence—Striking out as Embarrassing—Third Party Proceedings—Stay of Proceedings.*]—In an action for foreclosure of a mortgage made by the defendant and his deceased partner, paragraphs of the defence alleging in effect that the administratrix of the estate of the deceased partner was a necessary party to the action inasmuch as the defendant was entitled to contribution from the estate and as by virtue of an order made that no action should be brought against the administratrix as such, and staying all pending proceedings against her as such administratrix for four months, prevented the defendant from pursuing his remedy in that behalf, were struck out as embarrassing: the defendant's proper course being an application