

Reference was made to Imperial Gas Light and Coke Co. v. London Gas Light Co. (1854), 10 Ex. 39; Hunter v. Gibbons (1856), 1 H. & N. 459; Booth v. Earl of Warrington (1714), 4 Bro. P.C. 163; Hovenden v. Lord Annesley (1806), 2 Sch. & Ref. 607, 634; Barber v. Houston (1884), 14 L.R. Ir. 273; Armstrong v. Milburn (1885-6), 54 L.T.R. 247, 723 (C.A.); Molloy v. Mutual Reserve Life Insurance Co. (1906), 94 L.T.R. 756.

Judgment for the plaintiff with costs.

MIDDLETON, J., IN CHAMBERS.

JUNE 28TH, 1915.

RE SCOTT v. SILVER.

Division Courts—Garnishee Summons—Liquidator of Company Made Garnishee—Personal Liability for Wages of Persons Employed by Liquidator in Carrying on Business of Company after Winding-up Order—Leave to Proceed against Liquidator—Necessity for—Question of Law for Judge in Division Court—Motion for Prohibition.

Motion by the garnishee in a plaint in the 3rd Division Court in the District of Kenora for an order prohibiting the Judge, the clerk, and the primary creditor from proceeding to enforce a judgment against the garnishee.

B. H. Ardagh, for the garnishee.

J. H. Spence, for the primary creditor.

MIDDLETON, J., delivering a considered judgment, said that the primary debtor was employed by the garnishee in the business of a company of which the garnishee was liquidator, and money was due to the primary debtor for wages when the garnishee summons was served. There was no question about the indebtedness of the primary debtor to the primary creditor nor as to the indebtedness of the garnishee to the primary debtor; but the garnishee had paid over the money to the primary debtor in defiance of the judgment directing the garnishee to pay it to the primary creditor.

Where a company is being wound up under the Winding-up Act, R.S.C. 1906 ch. 144, no action can be brought without the leave of the Court against the company in liquidation; but this refers to the indebtedness of the company at the date of the