Rule 632 provides that "the payment of money into court shall not be deemed an admission of the cause of action in respect of which it is so paid."

Held, that the plaintiffs were not entitled to take out the money paid into court, unless they took it in full satisfaction of their claims.

John Greer, for the plaintiffs.

Montgomery, for the defendant.

Q. B. DIVISIONAL COURT.] [May 27.

GILBERT *v.* STILES.

Arrest—Ca. sa.—Order for—Motion to set aside—New material—Copy of affidavit—Affidavit on information and belief—Rule 609—Exhibits.

Upon an application to set aside an order for a *ca. sa.* upon the ground that it is based upon insufficient material, as distinguished from a motion to discharge the defendant from custody upon the merits, no new material can be used.

Damer v. *Busby*, 5 P. R. at p. 389, followed.

In this case an order for a *ca. sa.* was granted upon two affidavits; one that of the Toronto agent for the plaintiff's solicitors, exhibiting a copy of an affidavit made by one of such solicitors, stating that he believed it to be a true copy, and that the original was stated to have been enclosed in a letter received by him that day, but was not so enclosed, but not stating that such an affidavit ever existed.

Held, that this could not be treated as forming any evidence upon which an order for arrest could be founded.

The other affidavit used, stated that the deponent was credibly informed and believed certain facts, not stating the name of his informant nor the grounds of his belief.

Held, that this statement did not comply with Rule 609, and was insufficient as proof of the facts stated, upon an application for such an order.

Gibbins v. *Spalding*, 11. M. & W., 173; *McInnes* v. *Macklin*, 6 U. C. L. J., 14, referred to. The copy of affidavit marked as an exhibit to the affidavit of the Toronto agent, was not filed as an exhibit, and was subsequently produced to the Court as an original affidavit, a new jurat having been added.

Held, per FALCONBRIDGE, J., that the exhibit, even though it was not actually in the hands of the officer of the Court, was part of the record of the case, and should not have been so dealt with.

ROSE, J.] [May 29.

HAMILTON PROVIDENT & LOAN SOCIETY *v.* MCKIM.

Notice of trial—No power to shorten time—Rules 485, 661.

A defendant is entitled to the full ten days notice of trial prescribed by Rule 661, unless he has consented to take short notice of trial, or unless short notice can be directed as a term for granting an indulgence sought by a defendant; and there is no power under Rule 485 or otherwise to compel a defendant to take short notice.

John Crerar, for plaintiff.

Aylesworth, for defendants.

Law Students' Department.

The following papers were set at the Law Society Examination before Easter Term, 1889:

FIRST INTERMEDIATE.

REAL PROPERTY.

1. What is an estate in land? Is a lien an estate?

2. What words are used in conveyancing for the purpose of creating an estate tail?

3. What was the decision in *Taltarum's Case*, and what was its effect?

4. How was a mortgage regarded at law, how in equity, and how at the present day?

5. Define *dower* and *estate by the courtesy*, stating the essentials of each.

6. A tenant in tail buys the fee simple. What is the effect? Why?

7. What is a term of years?

SMITH'S COMMON LAW.

1. What is the law as to the liability of a person for an injury done to another by *accident* or *mistake*?