

STREET, J.]

EDWARDS v. FINDLAY.

[May 8.

Will—Codicil—Revocation of bequest.

A testator, by the third clause of his will, bequeathed to S. the sum of \$3,000 for life, and after his death to his children, &c., and by a subsequent clause directed his executors to deduct out of the \$3,000 all payments made to S. after the date of the will. By a codicil he directed that the bequest number three, bequeathing to S. the interest on \$3,000, be revoked, and in lieu thereof the sum of \$300 be paid to him, or his heirs, and that the direction as to payments made after the date of the will should apply thereto.

Held, that the effect of the codicil was to revoke the whole of the third clause.

Clarke, Q.C., for the plaintiff.

S. H. Blake, Q.C., and *Canniff* for certain residuary legatees.

Dr. Hoskin, Q.C., for the infants and certain adults.

BOYD, C.]

[Oct. 13.

IN RE REID v. GRAHAM BROTHERS.

Prohibition—Division Court—Judgment summons—Examination—Refusal of evidence—Partnership—Judgment against firm—Parties—Members of firm—Commitment.

An order having been made in a Division Court upon judgment summons, committing a defendant under s. 240, s.s. 4 (c), of R.S.O., c. 51, for having made away with his property,

Held, that it was not a ground for prohibition that the judge refused to allow the defendant under examination to make explanations as to his dealing with money lent by and repaid to him after judgment. The refusal of evidence is not ground for prohibition.

The members of a firm sued in the firm name are parties to the litigation; and when judgment is obtained in a Division Court against a firm as such, though execution can go only against the goods of the firm and against the individual goods of one who is sued as and found to be a partner, yet a judgment summons may be issued against another member of the firm, if only to get discovery of goods of the firm available for execution, and, if he makes wilful default in attendance, he is liable to be committed as for contempt of court.

D. Armour for the plaintiff.

R. S. Neville for the defendants.