

The presumption that value has been given may be done away with in the case of notes which have had their origin in actual fraud, but not in the case of notes made for the accommodation of others; and even where accommodation notes are made by an incorporated company, the onus of showing value is not shifted over to the plaintiffs.

*Re Peru R. W. Co.*, L.R. 2 Ch. 617, followed.

*Millard v. Baddeley*, W.N. 1884, p. 98, and *Fuller v. Alexander*, 47 L.T.N.S. 443, distinguished.

*Arnoldi*, Q.C., for the plaintiffs.

*A. H. Marsh*, Q.C., for the defendants.

Chy. Div'l Court.]

[Feb. 15.

ATWOOD *v.* ATWOOD.

*Husband and wife—Interim alimony and disbursements—Separation deed—Agreement not to sue for alimony—Merits.*

An appeal from the decision of BOYD, C., 15 P.R. 425, was dismissed by reason of a division of opinion of the judges composing a Divisional Court.

*Per* FERGUSON, J.: The order of the Chancellor was right.

*Per* MEREDITH, J.: The marriage being admitted, and need and refusal of support being proved, the plaintiff is *prima facie* entitled to interim alimony and disbursements; upon a motion, therefore, there ought not to be any adjudication upon any of the issues or questions to be tried between the parties; and if the motion cannot be refused without determining such issues or questions, or without prejudicing a trial of them, the order should be made, unless the action is frivolous or vexatious.

*Mabee* for the plaintiff.

*W. H. Blake* for the defendant.

Chy. Div'l Court.]

[Feb. 15.

FARKER *v.* ODETTE.

*Attachment of debts—Rule 935—Garnishee "within Ontario"—Foreign corporation—Debt due to two persons jointly.*

A foreign corporation incorporated under the laws of one of the United States, and not shown to carry on one of the principal parts of its business in this Province, is not "within Ontario" within the meaning of Rule 935, and moneys in its possession cannot be attached to answer a judgment.

*Canada Cotton Co. v. Parmalee*, 13 P.R. 308, followed.

*County of Wentworth v. Smith*, 15 P.R. 372, distinguished.

A debt due to a judgment debtor jointly with another person cannot be attached.

*Macdonald v. Tacquah Gold Mines Co.*, 13 Q.B.D. 535, followed.

*W. H. P. Clement* for the judgment creditor.

*Hoyles*, Q.C., for the judgment debtor.

*L. G. McCarthy* for the garnishees.