

his sheriff to deliver up to the claimant, who succeeded on an interpleader issue, the goods, etc., seized.

Upon a motion by the deputy sheriff to be discharged from custody, it was shown that this non-compliance with the order arose from a difficulty in which he found himself by the claim of another person, who had succeeded in an issue about the same goods, and not from any deliberate intention to disregard the order.

It was ordered that the deputy sheriff be discharged from custody.

Semble, that the motion should have been for leave to administer interrogatories to, or for the examination of the person committed, and for a *habeas corpus*

Judge of Co. of Lambton. }
Cameron, J. } March 13, 1883.

BRADLEY V. CLARK.

Third party—Examination—Rule 224 O. J. A.

Held, that though on the face of the pleadings there was no direct issue between the plaintiff and third party, yet as the latter had all the rights of the defendant, and virtually took his place, the case was within the spirit, at all events, of Rule 224 O. J. A., and that the plaintiff should be allowed to examine the third party after issue.

Holman, for the defendant.

Aylesworth, for the third party.

Rae, for the plaintiff.

Master in Ordinary.] [March 31.

HUTTON ET AL V. FEDERAL BANK ET AL.

Surety—Payment by—Interest.

Sureties who had paid the debt of a principal, claimed interest on moneys paid to the creditor under a special agreement, and also a return of interest in excess of seven per cent. paid by them to the Federal Bank on successive renewals of the notes given as collateral security for the debt of the principal.

C. R. W. Biggar, for the plaintiff.

H. J. Scott, for the Insurance Company.

Cattanach, for the Bank.

H. W. M. Murray and *Hoyles*, for other defendants.

Boyd, C.]

OLD V. OLD.

Interim alimony—Conduct of Plaintiff—Condition of payment.

Hoyles appealed from the order of the Master at Goderich, allowing the plaintiff \$6 a week for interim alimony, and showed that when plaintiff left defendant's house she took with her his books of account, notes and securities, and did not leave him with the means of paying interim alimony. He cited *Browne on Divorce*, p. 195; *Bremner v. Bremner*, 3 Sw. Tr. 219.

Order made staying the payment of alimony to the wife until she has produced on oath, in the office of the Master, all books, securities and notes, taken from defendant, which are to be delivered up to him; the plaintiff to give the usual undertaking to go to trial. No costs of appeal.

H. Cassels, for plaintiff.

Boyd, C.]

RE YOUNG.

Conveyance—Operative words in—Mistake—Intention.

This was an application under the Vendors and Purchasers Act, to obtain the opinion of the Court as to whether any, and if any, what estate passed and to whom under a deed dated 15th February, 1865, and made between Edward Musson, of the first part, Ann Musson, his wife, of the second part, and Alexander Gemmell and Jane Isabella Gemmell, wife of the said Alexander Gemmell, of the third part, whereby, "in consideration of the love and affection which he hath and beareth to the said parties of the third part, and also in further consideration of the sum of \$5, now paid by the said party of the third part, the receipt, etc., he, the said party of the first part, doth grant unto the said party of the third part, his heirs and assigns forever, all and singular, etc., to have and to hold unto the said party of the third part, his heirs and assigns, to and for his and their sole and only use forever."

Held, that the conveyance effectually vested an estate in fee simple in the husband by the operation of the Statute of Uses; also, that another construction equally effective if adopt-

[April 21.

[May 2.