

SUTHERLAND, J., IN CHAMBERS.

NOVEMBER 18TH, 1916.

## RE SOVEREIGN BANK OF CANADA.

## WALLIS'S CASE.

*Judgment Debtor—Order for Examination of Wife of, for Discovery in Aid of Execution—Ex Parte Order Set aside—Costs—Rules 582, 583.*

Appeal by Martha Wallis, the wife of Thomas Wallis, a contributory, against whom the liquidator of the bank had recovered judgment in the winding-up proceedings, and placed an execution in the sheriff's hands, from an order of J. A. C. Cameron, the Official Referee before whom the proceedings were pending, directing the appellant to attend for examination, at the instance of the liquidator, for discovery in aid of the execution against her husband.

W. Lawr, for the appellant.

M. L. Gordon, for the liquidator.

SUTHERLAND, J., in a written judgment, said that the order appealed against was made, as alleged, under Rule 583 or perhaps under Rule 582; and under either Rule it was not proper to make it without notice to the appellant, the person directed to attend for examination: *Blakeley v. Blaase* (1888), 12 P.R. 565. The learned Judge expressed no opinion as to whether an order could, in the circumstances, be obtained under either Rule. The order was not properly obtained *ex parte*, and must be set aside with costs.

FALCONBRIDGE, C.J.K.B.

NOVEMBER 18TH, 1916.

## RE PERRIE.

*Will—Construction—Specific Legacies—Estate Insufficient to Pay in Full—Cesser of Life Interest in Fund Set apart—Application of Fund to Supplement Abated Legacies.*

Motion by the executors and trustees under the will of Elizabeth Ann Perrie, deceased, for the opinion, advice, and direction of the Court respecting the distribution of a sum of money invested under para. 20 of the will, it having transpired that there was not sufficient money in the estate to pay the specific legacies