

## BUTLER V. BUTLER—MIDDLETON, J.—MAY 12.

*Promissory Note—Action on—Defence—Agreement to Renew—Money Paid for Defendant—Action for—Payment into Court—Costs.*]—Action to recover \$436.56 and interest, being moneys paid by the plaintiff for the defendant to a bank upon a guaranty. Another action was brought upon a promissory note. The learned Judge said that temper seemed to have prevailed over wisdom. In the action on the note the whole issue was as to an alleged agreement to renew the note; and he did not think that this agreement was proved; and, if proved, he did not think it would constitute a defence in law. In the action for the amount paid the bank, the defendant admitted the debt, and had paid the amount of it into Court; so the only question was one of costs. The learned Judge could see no reason why the defendant should not pay the costs. As the plaintiff might have contented himself with one suit, no costs should be allowed up to the appearance, but costs subsequent thereto should be allowed, as they were occasioned by the defendant's improper attitude. J. G. Wallace, K.C., for the plaintiff. W. R. Smyth, K.C., for the defendant.

## RE DAVIS AND KORN—MASTER IN CHAMBERS—MAY 13.

*Attachment of Debts—Cheque Drawn by Third Person on Garnishee Bank in Favour of Judgment Debtor and in Possession of Judgment Creditors—Solicitors.*]—Application by Davis and Mehr, solicitors, who were judgment creditors of Theresa Korn, by virtue of an order for payment of their costs by her, in a summary proceeding for taxation and payment, to make absolute an order attaching moneys alleged to be due to Theresa Korn by the Metropolitan Bank, garnishees. The attaching order was granted on the 29th April. There was no dispute as to the facts. The applicants were the solicitors of the judgment debtor, who was the plaintiff in an action which was settled. One of the terms of the settlement was an immediate payment to the plaintiff of \$200; each party was to pay his or her own costs. Theresa Korn refused to pay her solicitors' costs. They thereupon had their bill taxed, and it was certified at about \$160. They received from the defendant in the action a marked cheque on the Metropolitan Bank in favour of Theresa Korn, for \$200, which remained in their possession. They now asked for an order that the bank, on presentation of