

profit à prendre (so to speak) at the will of the Crown is likewise exigible.

A strong argument for the conclusion I have arrived at is the recent statute 2 Geo. V. ch. 8, sec. 7 (adding new sub-sections to sec. 77 of the Mining Act of Ontario, 1908) . . . .

I am of opinion that the appeal should be dismissed with costs. . . .

FALCONBRIDGE, C.J., and BRITTON, J., agreed in the result.

DIVISIONAL COURT.

AUGUST 20TH, 1912.

\*RENAUD v. THIBERT.

*Division Courts—Increased Jurisdiction—Division Courts Act, 10 Edw. VII. ch. 32, sec. 62—Ascertainment of Amount—Proof of Document—Proof of Ownership of—"Other and Extrinsic Evidence."*

Appeal by the defendant Thibert from the judgment of the Junior Judge of the County Court of the County of Essex, in favour of the plaintiff, for the recovery of \$260, in a Division Court action upon a covenant in a mortgage made by the defendant Thibert to the plaintiff.

The mortgage had been assigned by the plaintiff to one Meloche, by an assignment absolute in form, but which, as the Judge found, was not intended to be absolute, but a collateral security only for an advance by Meloche, who was made a defendant in the action.

At the trial, the plaintiff produced a document purporting to be a re-assignment of the mortgage from Meloche to the plaintiff, but failed to prove that it was executed by Meloche or under his authority.

The only question upon which judgment was reserved at the argument of the appeal was, whether the learned Judge had jurisdiction to try the action under sec. 62 of the Division Courts Act, 10 Edw. VII. ch. 32.

The appeal was heard by MEREDITH, C.J.C.P., TEETZEL and KELLY, JJ.

J. H. Rodd, for the appellant.

F. D. Davis, for the plaintiff.

\*To be reported in the Ontario Law Reports.