

MOSS, C.J.O., and MAGEE, J.A., concurred in dismissing the appeal, for reasons stated by each in writing.

MEREDITH, J.A., dissented from the judgment of the majority of the Court, and for reasons stated by him in writing, was in favour of allowing the appeal.

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JUNE 6TH, 1911.

DOMINION LINEN MILLS CO. v. LANGLEY.

*Contract—Sale by Liquidator of Stock in Trade of Insolvent Company—Reorganisation—Purchase of Goods by New Company—No Active Part in Sale Taken by Liquidator—Goods Sold “Free from Encumbrance,” and “Subject to Shorts and Longs”—Illegal Sale of Goods for Bleaching Charges.*

Appeal by the defendant from the judgment of MACMAHON, J., 1 O.W.N. 262.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

A. W. Anglin, K.C., for the defendant.

J. W. Bain, K.C., and M. L. Gordon, for the plaintiffs.

MAGEE, J.A.:—An incorporated company called Dominion Linen Mills, Limited, was in business at Bracebridge manufacturing linen cloth in 1905. It was in the habit of sending cloth of its manufacture to a firm of Lumsden & McKenzie in Scotland to be bleached and returned. In January, 1906, the company got into financial difficulties. All its assets, excepting some smaller claims against contributories, and possibly a very few small items, were held by its largest creditor, the Crown Bank of Canada, as security for its debt to that bank, and the company had made an assignment for the benefit of its creditors.

On January 30th, 1906, an order was made under the Winding-up Act that the company should be wound up. By another order of the same date the defendant Langley was appointed provisional liquidator and ordered to enter into such an arrangement and agreement with the Crown Bank, who, the order