## REPORTS AND NOTES OF CASES.

## Dominion of Canada.

## SUPREME COURT.

Ont.]

MARTIN V. FOWLER.

[May 7.

Construction of statute—Creditors' Relief Act—9 Edw. VII., c. 48, s. 6, ss. 4 (Ont.)—Contesting creditor's lien—Assignments and Preferences Act—10 Edw. VII., c. 64, s. 14 (Ont.).

Sec. 6, sub-s. 4 of the Creditor's Relief Act of Ontario provides that "Where proceedings are taken by a sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute prorata in proportion to the amount of their executions or certificates to the expense of contesting any adverse claim shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates." Sec. 14 of the Assignments and Preferences Act is as follows:---

"14. An assignment for the general benefit of creditors under this Act shall take precedence of attachments, garnishee orders, judgments, executions not completely executed by payment and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs, where there is but one execution in the sheriff's hands, or to the lien, if any, for his costs of the creditor who has the first execution in the sheriff's hands."

*Held*, that the preferential lien given by the former Act to the contesting creditor is not taken away by said sec. 14 of The Assignments and Preferences Act.

## Appeal dismissed with costs.

Lefroy, K.C., for the appellant. Watson, K.C., and J. Grayson Smith, for the respondents, Fowler and others. D. J. M. McDougall, for respondent Sheriff of Toronto.

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March 21.

Will—Universal legacy to wife—Devise of what is undisposed of at wife's death—Substitution.

SUTARER v. HOGG.

S. by his will gave all his property absolutely to his wife