

questions of law involved do not in their lordships' opinion present any difficulty.

The Eastern Townships Bank carry on the business of bankers in Canada, having their head office at Sherbrooke, in the Province of Quebec, with a branch office at Coaticooke. Amongst the persons banking with the Eastern Townships Bank were the Pioneer Beetroot Sugar Company. In February, 1882, this company was indebted to the Bank in a considerable amount. As security for \$15,000, a part of this indebtedness, the Bank held mortgages of the real estate of the company. In respect of a further sum of \$23,000 the Bank obtained a judgment by default against the company on the 25th February, 1882, and registered it against the real property of the company on the same day.

On the 21st October, 1882, Fairbanks & Co., creditors of the Sugar company, attached under execution of a judgment all the real property of the company, which the sheriff of the district advertised for sale on the 12th January, 1883. The respondent Beard, who had leased the factory of the Sugar company on favourable terms, was anxious to prevent a sale, and with this object he paid off Fairbanks & Co.'s debt and took a transfer of their rights. Having done so he enquired of the sheriff whether he would stop the sale. The sheriff, however, was not in a position to take this course inasmuch as writs had been noted in respect of other judgments which rendered it obligatory on him to proceed with the sale. Under these circumstances Beard entered into negotiations with the Bank with a view to obtaining the property which was to be sold. The nature of these negotiations sufficiently appears from the letter which, as their result, Mr. Farwell the manager of the Bank, on the 6th of January, 1883, addressed to Messrs. Beard and McDougall.

The letter was in the following terms:—

“ In the event of the Bank becoming the purchaser of the
“ Pioneer Beet Sugar Company property now advertised to be
“ sold at sheriff's sale on the 12th inst., we hereby agree to sell
“ the same to you jointly and severally within ten days there-
“ after at such sum as will pay our claim and all expenses
“ connected with the sale upon the following terms and con-
“ ditions, viz.: a cash payment of a sufficient amount to reduce
“ our whole debt to \$40,000, a further sum in cash with what