

Full Court.]

[June 30.]

MORRIS v. MARTIN.

Interpleader issue—Mortgage of goods to secure wife barring dower—Payment of money into Court to abide further order.

In an interpleader issue in respect to goods (which had been sold pending proceedings) it appeared that they had been included in a chattel mortgage given to the defendant to the issue for the purpose of securing her against loss, damage, costs, etc., that she might sustain or be put to by reason of her executing certain mortgages for the purpose of barring her dower.

Her husband was still living, so that it did not appear that she had yet sustained any such loss or damage.

Held, that the money, the proceeds of the goods, must remain in Court to abide further order, so that the defendant would have the same security that she had by the mortgage, and if she should not become entitled to the money, it would be available to her husband's creditor, the owner of the goods mortgaged.

Moss, Q.C., for the defendant.

C. J. Holman contra.

Full Court.]

[June 30.]

WELLBANKS v. HENRY.

Fraudulent preference—Agreement to supply material for manufacture, the goods manufactured nevertheless to remain property of the supplier of the material—Defeating and delaying creditors.

Interpleader issue.

The claimant agreed with A., an insolvent, in writing, to furnish material to the latter for the manufacture of carriages from time to time, for the period of one year; it being also provided that no property, title, interest or ownership in said goods or merchandise should pass to, vest in or belong to A., but that notwithstanding any improvement, or work upon the same, or change of form, or addition thereto, or use thereof, the same and every part thereof, should be, and remain the goods and property of the plaintiff.

The material was supplied and manufactured into carriages by A., which were seized by the defendants', execution creditors of A., and the claimant claimed the same, more being owing to him for the material supplied than the value of the goods seized.

Held, reversing the decision of ARMOUR, C. J., that the above agreement was not one which could be said necessarily to have effect by defeating or delaying creditors, and in the absence of fraud, the claimant was entitled to succeed on this issue.

C. H. Widdifield for the claimant (plaintiff).
Alcorn for the defendants.

Practice.

Ct. of App.]

[June 28.]

MARITIME BANK v. STEWART ET AL.

Bankruptcy and insolvency—English Bankrupt Acts, scope of—Canadian creditors proving claim in England—Staying actions in Ontario—Discretion—Duration of stay.

The order of the Queen's Bench Divisional Court, 13 P. R., 262, affirming the order of ROSE, J., ib. 86, staying proceedings, was affirmed on appeal.

HAGARTY, C. J. O., and MACLENNAN, J.A., were of opinion that the order was properly made.

BURTON and OSLER, JJ. A., were of opinion that as an exercise of discretion it could not be interfered with.

BURTON and MACLENNAN, JJ. A., were also of the opinion that the order should be varied by making the stay "until further order," instead of "for ever."

Robinson, Q.C., and *Gormully, Q.C.*, for the appellants.

McCarthy, Q.C., and *A. Ferguson, Q.C.*, for the respondents.

Chy. Div'l. Ct.]

[June 30.]

DOMINION BANK v. BELL.

Examination—Right of witnesses to presence of counsel—Special circumstances.

In an action against the maker and indorser of a promissory note, judgment went by default against the indorser, but the maker appeared, and upon the consent of the plaintiffs obtained an order under Rule 566, per the examination, before a special examiner, of the indorser and his book-keeper before delivery of defence, the object being to show that the in-