

executed an assignment of the security to him. Clare filed his claim as a creditor and claiming also a lien for the amount of his claim upon the stock in trade of the company. The liquidator admitted Clare to be a creditor, but disputed the validity of the lien. The Master in Ordinary gave judgment declaring Clare to be entitled to rank as a creditor for the amount paid, and to a lien on the stock in trade of the company, holding that he was entitled to all the rights and remedies against the assets that would have been open to the bank before the bank assigned to Clare.

Held, 1. The act does not expressly provide that the security may be assigned, and as the assignment had not been perfected under the Judicature Act, or by notice given prior to the winding-up order, and as there was no right of subrogation which would render the assignment unnecessary, the lien could not be allowed.

2. As the provisions of section 88 of the Bank Act infringe upon the policy of the provincial law which requires registration, the language of the Act must not be strained so as to confer a priority which is not reasonably necessary to the carrying out of the policy of the Act.

3. To construe the Act, as if it provided for the assignment of the security of a third party would open the door to a fraudulent use of the Act, and so it should not be construed as impliedly authorizing that which it does not expressly authorize, or which is not reasonably necessary to the working of the Act.

4. The special security conferred by the Act is at an end when the document is assigned by the bank to a third party, and such assignment does not, therefore, carry with it any special priority. The securities referred to are only those which are legally assignable. See *In re Russell, Russell v. Shoolbred*, 29 Ch.D. pp. 265 and 266.

The appeal allowed but without costs.

J. M. Clark, for liquidator. *J. E. Jones*, for claimant.

Anglin, J.—Trial.)

[March 27.]

WHITTING v. FLEMING.

Slander imputing unchastity—Interlocutory judgment for default of defence—Assessment of damages—Necessity for setting case down for assessment—Costs.

Action for a slander imputing unchastity to plaintiff brought