

from transferring certain shares held by her under assignment from her husband, allowed with costs on the following grounds:

1. The statement of claim did not contain a distinct allegation that Archibald Wright was indebted to the plaintiffs, or any allegation that there was any indebtedness at the time of the transfer of any of the stock, except the Tuxedo Park Co. stock.

2. The only evidence that there was any fraud, or attempt at fraud, or conspiracy to get rid of his property, was the bare statement of Archibald Wright to the plaintiffs' Winnipeg manager, that he had no security to give when he was asked to give security for his liabilities to the plaintiffs, although at the time he first incurred the liability he had represented his financial strength at \$316,000, consisting principally of shares in several joint stock companies, the subject matters of the alleged fraudulent conveyances, and such statement could be no evidence of fraud, or indeed evidence of any nature to bind his co-defendant.

3. The statement of claim did not allege that Archibald Wright, after parting with the assets in question, had not still enough other property to meet his liabilities.

4. Although the action purported, in the style of cause, to be brought on behalf of the plaintiffs and all other creditors of Wright, there was in the body of the statement of claim no allegation of the existence of other creditors. Injunction dissolved with costs of the motion and of the appeal.

Leave to amend within fourteen days.

Mulock, K.C., and Loftus, for plaintiffs. Minty, for defendants.

KING'S BENCH.

Macdonald, J.]

[May 4.

BENNETTO v. CANADIAN PACIFIC RY. CO.

Railway company—Expropriation of land—Acceptance of amount offered by company.

Defendants, in exercise of their right to expropriate the plaintiff's land, served upon him in November, 1904, a notice offering \$6,500 for it and naming an arbitrator in case of refusal. In June following, the plaintiff accepted the offer, no proceedings having been taken by the company in the meantime. This action, brought to recover the \$6,500, was defended on the ground that, under s. 159 of the Railway Act, 1903, the plain-