

THE

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TORONTO, JUNE 19, 1911.

No. 11

NOVA SCOTIA.

SUPREME COURT.

FULL COURT.

APRIL 29TH, 1911.

PITTS v. CAMPBELL

Chattel Mortgage — Preference — Action by Judgment Creditor to Set aside — Consequential Relief — Cummings v. Taylor (28 S. C. R. 337) Applied—Distress Proceedings — Irregularity — Point not Susceptible of being Raised by Plaintiff Seeking to Recover Proceeds of Alleged Irregular Sale.

Appeal from the judgment of LONGLEY, J., in favour of plaintiff, in an action to set aside a chattel mortgage as fraudulent and void as against creditors.

D. McNeil, K.C., in support of appeal.

W. F. O'Connor, K.C., contra.

The judgment of the Court was delivered by

GRAHAM, E.J.:—The plaintiff recovered judgment on the 13th May, 1910, against a firm of McGillivray and Guihan for \$315.55, and on that date placed an execution in the sheriff's hands. On the 5th May, these debtors had given a chattel mortgage to the defendant Campbell, another creditor, of certain of their goods, and this action is brought 31st May, 1910, the plaintiff suing on behalf of himself and all other creditors, &c., to have that chattel