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TORONTO, JULY 26, 1911.

No. 44.

COURT OF APPEAL.

JULY 13TH, 1911.

*SOVEREIGN BANK OF CANADA v. PARSONS.

Set-off—Business of Manufacturing Company Carried on by Receiver under Order of Court—Goods Manufactured by Receiver for Customer—Assignment by Receiver to Bank of Moneys Due for Price of Goods—Right of Customer to Set off Damages for Breach of Contract Made with Company.

Appeal by the defendants from the judgment of BRITTON, J., 1 O.W.N. 1079.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

I. F. Hellmuth, K.C., and G. Larratt Smith, for the defendants.

J. Bicknell, K.C., and J. F. Boland, for the plaintiffs.

GARROW, J.A.:— . . . The Imperial Paper Mills of Canada Limited carried on the business of manufacturing paper at Sturgeon Falls, in this Province, John Craig being manager. The defendants reside and carry on business in the city of New York as extensive dealers in paper, acting therein both as ordinary merchants and as brokers. They were also shareholders and bondholders in the paper company for a considerable sum. At the date of the order appointing John Craig receiver and manager, there were outstanding several contracts between the paper company and the defendants for paper to be manufactured and supplied from time to time, which had not been fully performed, but no default, prior to the date of Mr. Craig's appointment, had taken place, or at least is complained of; and indeed the contrary is alleged in the 3rd para-

*To be reported in the Ontario Law Reports.