

appear to us the transactions in question are open to the objections urged by Mr. McPherson. It is beyond doubt—indeed it is admitted—that the advances were made by the bank. The amounts were placed to the company's credit and were used by it. Upon each occasion of an advance an agreement purporting to assign certain contracts, which were assets or property of the company, was given to the bank. These contracts were property which could be transferred under the Bank Act as security for advances. So that, unless want of notice to the debtors under the contracts affected the question, the assets were vested in the bank as security for advances made at the time. It is said that notice to the creditors was essential to protect the bank's position. But the question here is not between the bank and the debtor or between the bank and another assignee. The liquidator is, in this respect, in no higher position than the insolvent. He is an assignee by operation of law and is not a subsequent assignee as that term is applied in cases of this kind. As regards these transactions the liquidator stands in the company's shoes, and the cases shew that in order to complete the title as between assignor and assignee notice to the debtor is not necessary. In our opinion the learned Chief Justice was right, and the appeal must be dismissed.

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#### HIGH COURT OF JUSTICE.

CLUTE, J., IN CHAMBERS.

JANUARY 28TH, 1910.

#### OAKLEY v. SILVER.

*Parties—Third Party—Action against Vendor to Set aside Sale of Mining Location—Third Party Notice Served on Person Interested with Vendor in Location.*

Appeal by C. H. Bunker from two orders of the Master in Chambers, the first dated the 30th November, 1909, allowing the defendant to serve the appellant with a third party notice, and the second dated the 10th January, 1910, refusing to set aside the first order and giving directions for the trial of the issues raised.

Bunker entered into an agreement with the defendant on the 15th October, 1908, the effect of which was that the defendant should forthwith proceed to Montreal River for the purpose of locating and acquiring mining claims, and \$300 was deposited to the credit of the defendant in a bank at Cobalt, to be used by him for his expenses. etc. It was provided that, should any claim be located by the defendant or his employees, it should belong half