

Province of British Columbia.

SUPREME COURT.

Full Court.]

[Jan. 21.

STAR MINING AND MILLING CO. v. BYRON N. WHITE CO.

Practice—Appeal—Security for costs.

Defendants applied under s. 114 of the Companies Act for the costs of the action which had been decided in their favour, and also for the costs of the appeal from that decision. The judgment appealed from was given in February, 1905; in March, 1905, defendants were aware of the plaintiffs' inability to pay the costs of the action unless an appeal resulted in their favour. Taxation took place June 27, 1906, and the application for security was made July 30, 1906.

Held, on appeal, that the application was made too late, plaintiffs having in the meantime perfected all necessary steps for taking an appeal.

Held, as to the costs of the appeal, that 110 of the Supreme Court Act, which limits the security that may be required for costs of appeal to \$200, governed.

Decision of HUNTER, C.J., affirmed.

Bodwell, K.C., and *Lennie*, for appellants. *Davis*, K.C., and *S. S. Taylor*, K.C., for respondents.

Full Court.] DE BECK v. CANADA PERMANENT.

[Jan. 21.

Mortgagee—Power of sale—Orders nisi and absolute Accounts—Rents, receipt of—Tender—Interest.

A mortgagee having obtained a foreclosure order nisi, shortly afterwards, and before the period allowed for making absolute the order nisi had expired, entered into an agreement for the sale of the mortgaged premises to a purchaser who had knowledge of the foreclosure proceedings. The order absolute was never taken out. The agreement for sale was not deposited for