had been entered into between the firm of K. & O., and the plaintiff to pay the notes in question.

The Court being thus divided in opinion, the appeal was dismissed with costs.

Robinson, Q.C., and *Mackelcan*, Q.C., for the appellants.

Osler, Q.C., and *Teetzel*, for the respondent.

From Q.B.D.] [May 13.

REGINA v. COUNTY OF WELLINGTON.

Constitutional Law—British North America Act—Bankruptcy and insolvency—Banking, and incorporation of banks—Property and civil rights—Crown—Taxation—Tax Sale—R.S.O. (1887), c. 193, s. 7, s-s. 1.

Certain lands, after the grant from the Crown, became, by certain mesne conveyances, the property of the Bank of Upper Canada, and, upon the failure of the bank, were conveyed to its trustees, and were subsequently, with the other assets of the bank, vested in the Crown, by 33 Vict., c. 40 (D.). The Crown then sold them, and the purchaser gave a mortgage back to secure part of the purchase money. The mortgage contained the usual provisions for payment of taxes, but the taxes were not paid, and the lands were sold, this action being brought to set aside the sale.

Held, per HAGARTY, C.J.O., and OSLER, J.A., that the Act, 33 Vict., c. 40 (D.), was *intra vires*, being properly to be regarded as one dealing with "bankruptcy and insolvency," or "banking, and incorporation of banks." That the lands were therefore properly vested in the Crown, as trustee, and that the interest of the Crown, as mortgagee and trustee, could not be sold for arrears of taxes, but was exempt under R.S.O. (1887), c. 193, s. 7, s-s. 1.

Per BURTON, J.A.: That the Act was *ultra vires* as an interference with "property and civil rights in the Province," and that the lands remained in the trustees subject to taxation. That even if the Act was *intra vires*, still the lands, being vested in the Crown in the place and stead of the trustees, voluntarily selected by the shareholders of the bank, were not exempt from taxation.

Per MACLENNAN, J.A.: That the Act was *ultra vires* and the lands subject to taxation, but that upon the evidence, the sale was fraudulent and void as far as the interest of the Crown was concerned.

The judgment of the Queen's Bench Division was therefore affirmed, BURTON, J.A., dissenting.

Bain, Q.C., and *Kappele*, for the appellants.

H. D. Gamble and *H. L. Dunn* for the respondent.

J. R. Cartwright, Q.C., for the Attorney-General for Ontario.

FROM CO. CT. HASTINGS.] [June 6.

ASHLEY *v.* BROWN.

Assignments and preferences—Creditor—Knowledge of insolvency—R.S.O. (1887), c. 124.

One who has a right of action for tort, and subsequently recovers judgment, is not a creditor within the meaning of the Assignments and Preferences Act, so as to be in a position to attack a transaction entered into by the tort feasor before the action was commenced.

Where a transaction is attacked under that Act, knowledge by the transferee of the insolvency of the transferor must be shown.

Johnson v. *Hope*, 17 A.R., 10, adhered to.

Judgment of the County Court of Hastings affirmed.

Moss, Q.C., and *Clute*, Q.C., for the appellant.

Watson, Q.C., and *Redick*, for the respondent.

HIGH COURT OF JUSTICE.

Queen's Bench Division.

DIV'L CT.] [June 27.

IN RE LONG POINT CO. *v.* ANDERSON.

Game—Feræ naturæ—Property of owner of land in deer found thereon—29 & 30 Vict., c. 122—R.S.O., c. 221, s. 10, Construction of—Prohibition — Division Court— Undisputed facts—Error in law—Misconstruction of statutes.

The defendant killed upon his own land, which adjoined that of the plaintiffs', and was unfenced, a deer, one of the progeny of certain deer imported by the plaintiffs, and allowed to run at large upon their land.

Held, that the deer was *ferae naturae* and, having been shot by the defendant on his own land, belonged to him.

Held, also, that neither the Act incorporating the plaintiffs, 29 & 30, Vict., c. 122, nor R.S.O.,