Held, that the P. L. Co. could only hold the policies as collateral security for the mortgage to the C. L. Ins. Co., and not as security for their own mortgage.

Held, further, that the mortgage to the P. L. Co. only carried interest at the rate of 10 per cent. until the principal was payable, and after that date the statutory rate governed.

Rykert v. *St. John* (10 Can. S.C.R. 278) followed.

Appeal dismissed with costs.

Delamere, Q.C., for appellants.

Beck for respondent.

Quebec.] [Dec. 9.

MORIN *v.* THE QUEEN.

Error—Writ of—On what founded—Right of Crown to stand aside jurors when panel of jurors has been gone through—Question of law not reserved at trial—Criminal Procedure Act—R.S.C., c. 174, ss. 164, 256, 266.

Where a panel had been gone through and a full jury had not been obtained, the counsel for the prisoner on the second calling over the jury list objected to the Crown ordering certain jurors to stand aside a second time without cause, and the Judge presiding at the trial did not reserve, or refuse to reserve, the objection, but ordered the jurors to stand aside again, and after conviction and judgment a writ of error was issued.

Held, per TASCHEREAU, GWYNNE and PATTERSON, JJ. (affirming the judgment of the court below), that the question was founded on a question of law arising *on the trial* which could have been reserved under sec. 256 of c. 174, R.S.C., and as the Judge *at the trial* had not reserved, or refused to reserve, the question, the writ of error should be quashed. S. 266, c. 174, R.S.C.

Per RITCHIE, C.J., and STRONG, FOURNIER, and PATTERSON, JJ., that in the present case the Crown could not, without showing cause for challenge, direct a juror to stand aside a second time. S. 164, c. 174, R.S.C. (*Morin* v. *Lacombe*, 13 L.C.J. 259, overruled).

Per TASCHEREAU, J., that the learned Judge at the trial was justified in ruling according to *Morin* v. *Lacombe*, 13 L.C.J. 259, and the jurisprudence of the Province of Quebec.

Per GWYNNE, J., that all the prisoner could complain of was a mere irregularity in procedure, which could not constitute a mis-trial.

Per RITCHIE, C.J., and STRONG and FOURNIER, JJ., that as the question arose *before the trial* commenced it could not have been reserved, and as the error of law appeared on the face of the record, the remedy, by a writ of error was applicable. (See *Brisebois* v. *Queen*, 15 Can. S.C.R. 421.)

Appeal dismissed.

Langelier, Q.C., for appellant.

Dunbar, Q.C., for respondent.

Nova Scotia.] [Nov. 10.

ARCHIBALD *v.* HUBLEY.

Bill of sale—Affidavit of bona fides—Form of jurat—Omission of date and words "before me"—Writ of execution—Signature of prothonotary.

The Nova Scotia Bills of Sale Act, R.S., N.S., 5th ser., c. 92, s. 4, provides that a bill of sale or chattel mortgage shall be void unless accompanied by an affidavit that the same was made in good faith for a debt due to the grantee, etc. By s. 10 the expression "bill of sale" does not include an assignment for the general benefit of creditors. One E. assigned his property to A. in trust, to sell the same and apply the proceeds to the payment of debts due certain named creditors of the assignor. The affidavit accompanying this instrument omitted from the jurat the date of swearing and the words "before me."

Held, reversing the judgment of the Supreme Court of Nova Scotia, GWYNNE, J., dissenting, that this instrument was not an assignment for the general benefit of creditors, and was a bill of sale within the above section of the Act.

Held, also, that the affidavit required by said section must have all the requirements of affidavits used in judicial proceedings. Therefore the omission of the words "before me" from the jurat made the affidavit void and the defect could not be cured by parol evidence in proceedings by an execution creditior of the assignor to have the mortgaged goods taken to satisfy his execution.

Held per GWYNNE, J., that it is only when an affidavit is necessary to give the court jurisdiction to deal with a matter before it that defects of form will invalidate it. In a case like this the affidavit is only an incident in the proceedings and the defect could be cured by evidence.