

Full Court.]

PELEKAISE v. McLEAN.

[Feb. 10.]

*Conditional sale—Lien note—Dealer disposing of horses in the ordinary course of his business.*

Appeal from judgment of CAMERON, J., noted ante, vol. 44, p. 710, allowed with costs, on the ground that the plaintiff had failed to give any evidence of title to the horses, other than that he had purchased for value from one Brett and had failed to give evidence of the sale to Foorsen or of the sale by Foorsen to Brett, and that the facts proved fell short of those proved in the case of *Brett v. Foorsen*, 17 M.R. 241.

The court expressed no opinions as to whether that case was rightly decided or not.

Leave given to plaintiff to have a new trial on payment of the costs of the former trial and of the appeal.

*Hudson and McKerchar*, for plaintiff. *Wilson*, for defendant.

Full Court.]

CHARLES H. LILLY CO. v. JOHNSTON FISHERIES CO.

[Feb. 15.]

*Company law—Unlicensed foreign company suing on foreign judgment—"Doing business," what constitutes—Winding up—Notice of—Action against company in liquidation—Liquidator first appearing in action on appeal—Costs.*

A foreign company is not precluded by any provision in the Companies Act, 1897, compelling registration before it can transact any of its business in the province, from access to the courts of the province in the capacity of an ordinary suitor.

Per IRVING, J. (dissenting on this point).—That the bringing of an action without the jurisdiction by an unlicensed foreign company was carrying on business as aimed at by ss. 123 and 143 of the Companies Act, 1897.

Judgment having been obtained against defendants in a foreign jurisdiction, suit was brought in British Columbia on the foreign judgment. The defendant company had been wound up prior to the commencement of the suit, but that fact was not pleaded, and was only raised on the opening of the trial by counsel for defendant Johnston, the liquidator of the company not being present or represented; nor was the permission of the court obtained to sue the company.

*Held*, that the plaintiff must pay the costs occasioned subsequently to the receipt of notice of the company's legal position.