

was not one which D., the judgment debtor as against whom the garnishee proceedings were taken, could maintain action on in his own right and for his own exclusive benefit; and that D.'s wife was not precluded, by having assented to the issue and to the money being paid into court, from claiming that it could not be attached in these proceedings.

*Held*, also, that under the evidence given in the case, the original transfer to the wife of D. was *bona fide*; that she paid for the land with her own money and bought it for own use; and that if it was not *bona fide* the Supreme Court of the Territories, though exercising the functions and possessing the powers formerly exercised and possessed by courts of equity, could not, in these statutory proceedings, grant the relief that could have been obtained in a suit in equity.

Appeal allowed with costs.

*Armour, Q.C.*, for the appellant.

*Gibbons, Q.C.*, for the respondents.

26 June, 1895.

TORONTO RY CO. v. THE QUEEN.

Exchequer Court.]

*Customs duties—Exemption from duty—Steel rails—For use on railway tracks—Rails for street railway—Customs Tariff Act, 50 and 51 Vic., c. 39, item 173.*

By item 173 of the Customs Tariff Act, (50 & 51 Vic. c. 39 (D)), steel rails weighing not less than twenty-five pounds per lineal yard, for use on railway tracks, are exempt from duty.

*Held*, affirming the decision of the Exchequer Court (4 Ex. C. R. 262), Strong, C. J., and King, J., dissenting, that this exemption does not apply to rails for use on street railway tracks.

Appeal dismissed with costs.

*Robinson, Q.C., & Osler, Q.C.*, for the appellants.

*Newcombe, Q.C.*, Deputy Minister of Justice, & *Hodgins*, for the respondent.