

The plaintiffs' bill in the equity suit set out a letter written by G. to one of the plaintiffs, threatening that if proceedings were taken against him to make disclosures of malpractices by the testator which might result in heavy penalties being exacted from the estate.

Held, that this was such an improper act by G. that the court should have immediately removed him from the trusteeship of the estate.

Appeal dismissed with costs.

McLeod, Q.C., and *Palmer*, Q.C., for the appellants.

Hazen for the respondents.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

From Chy. Div.]

[June 30.

GRANT *v.* NORTHERN PACIFIC JUNCTION RAILWAY COMPANY.

Railways—Carriers—Connecting lines—Misdelivery of goods—Principal and agent—Consignor and consignee.

This was an appeal by the defendants from the judgment of the Chancery Division, affirming that of STREET, J., reported 22 O.R. 645, and was argued before HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, J.J.A., on the 19th of March, 1894.

J. McGregor and *R. G. Smyth* for the appellants.

W. Nesbitt and *T. Wells* for the respondents.

At the conclusion of the argument the appeal was dismissed with costs.

From ARMOUR, C.J.]

[June 30.

MERIDEN BRITANNIA COMPANY *v.* BRADEN.

Bills of sale and chattel mortgages—Simple contract creditors—"Void as against creditors"—55 Vict., c. 26, s. 2 (O.).

"Void as against creditors," in s. 2 of 55 Vict., c. 26 (O.), which extends the provisions of the Act respecting mortgages and sales of personal property to simple contract creditors suing on behalf of themselves and other creditors, must be read "voidable as against creditors," and it is not until an election is made by the simple contract creditors so suing, by the commencement of proceedings to attack it, that it is too late to validate a defective chattel mortgage by taking possession under it, and a sale of the goods by the mortgagee before action cannot be impeached.

Quære: Whether such action can be brought by a simple contract creditor whose debt is not due.

Judgment of ARMOUR, C.J., reversed.

J. J. Scott and *A. M. Macdonell* for the appellants.

J. W. Nesbitt, Q.C., and *J. Bicknell* for the respondents.