

mon do not arise, and that the improvements in this case were not made by the respondent in the character of a tenant in common, but as the agent of his mother, the life tenant, and could not be allowed for.

Hoyles, Q.C., for the adult appellants.

Aytoun-Finlay for the infant appellants.

Bigelow, Q.C., *contra*.

Full Court.]

FERGUSON, J.]

[Sept. 5.

ROBERTSON, J.]

TAILLIFER v. TAILLIFER.

Private international law—Ante-nuptial contract—Matrimonial domicile—Lex rei sita.

Action for administration of estate of Alexis Taillifer.

The deceased, on March 31st, 1864, entered into an ante-nuptial contract in the Province of Quebec with his future wife, the present plaintiff, concerning the rights and property of the parties to it, present and future.

Held, that the provisions of this contract should govern not only as to the movable, but also as to the immovable property of the deceased, though situate in this province, provided that the laws of this province relating to real property were complied with; and it made no difference whether the matrimonial domicile of the parties at the time of the contract and marriage was in Ontario or in Quebec.

The ante-nuptial contract in question was signed by notaries who signed their own names, having full authority from both the contracting parties so to do.

Held, that this was a sufficient signature within the Statute of Frauds to bind the parties.

Shepley, Q.C. for the plaintiff.

Aytoun-Finlay for the infant defendants.

Snow for the adult defendant.

BOYD, C.]

[Sept. 17.

ROGERS v. ONTARIO BANK.

Fixtures—Mortgagor and Mortgagee—Fi. fa. goods—Interpleader.

Interpleader issue as to certain machinery and buildings erected by the purchaser of an equity of redemption in certain lands upon the said lands.

The machinery in question was placed *in situ* on the land and housed with a view to the utiliza-

tion of it at a phosphate mine; and it was intended to utilize the machinery upon the land so long as veins could be found. The soil was excavated in order to form a firm bed for the boiler and hoist, and the machinery was firmly attached by bolts to sleepers or skids placed on the rock-bottom of the excavation; and a house was erected over the machinery, to erect which the soil was also to some extent excavated. The boiler and machinery were also fastened to the building by rods inside underneath the floor.

Held, that the chattels in question were fixtures, and could not be removed without the consent of the mortgagee.

Semble, that, apart from this, it was impossible to sell these fixtures under an execution against goods so long as the physical attachment to the land existed, even if the owner of the equity of redemption had had the right to detach and remove them as chattels.

ROBERTSON, J.]

[Sept. 17.

IN RE OWEN SOUND DRY DOCK, SHIP-BUILDING, AND NAVIGATION CO. (LIMITED).
and

In the matter of the Winding-up Act, c. 126, R.S.C., 1886, and the Amending Act, 52 Vict., c. 32, Can.

Winding-up Act—Contributories—Solvency of company accepting a reduced amount in payment of stock—Right to do so.

A dry dock company, having issued stock to the extent of \$15000 and having assets to over \$30000 above their other liabilities, passed a by-law accepting from each of the shareholders \$3000 as payment in full of \$3750 stock. Subsequently the company got into difficulties and was put into liquidation under the Winding-up Act.

On an application by the liquidators to have these shareholders placed upon the list of contributories to the extent of \$750 each, it was

Held, on an appeal from a master, that as the company was not only solvent at the time, but had a surplus of sufficient dimensions to warrant them in so doing, they had the right to accept \$3000 in payment of \$3750 stock, and the appeal was dismissed.

J. M. Kilbourn for the appeal.

Hoyles, Q.C., and *H. B. Smith, contra*.