

pany represents the year's taxable income. Kingston was not a branch at which any sum arbitrary or otherwise could be assessed as "income." The argument *ab inconvenienti* applies cogently to exclude "income" as an item of "personal property" to be assessed at a "branch" which is entirely in subordination to the principal seat of business.

McCarthy, Q.C., and Bruce, Q.C., for the defendants.

Walkem, Q.C., and Langton, for the plaintiffs.

FERGUSON, J.]

MACKLIN v. DOWLING.

Sale of lands—Title—Private Acts—Equitable interest in mortgage.

On a reference as to title in a specific performance action, it appeared that one E. N. H. in 1861, through the Canada Agency Association, agreed to advance to certain mortgagors \$7,430 at interest; that the Association agreed with E. N. H. to become liable to her for interest at 7 per cent. per annum on this sum, and in consideration of this was to receive to its own use all interest above that rate, and that the security for the money should be vested in trustees. Accordingly the mortgage, which bore date May 4th, 1861, was made to T. G. R. and D.B., trustees appointed by the Directors of the Association. On January 23rd, 1869, 32 Vict., c. 62, s. 5 O. was passed, whereby all lands, mortgages, securities, etc., held by trustees of the Association were vested in the Colonial Securities Company, and on September 23rd, 1872, the mortgagor released his equity of redemption to the Colonial Securities Co., in full satisfaction of the mortgage moneys, but not so as to merge the mortgage. On March 29th, 1873, 36 Vict., c. 121, s. 5 O. was passed, whereby all lands, mortgages and securities of the Colonial Securities Company were vested in the Colonial Trusts Corporation. On Jan. 12th, 1878, the Colonial Trusts Corporation conveyed the lands to the plaintiff, the present vendor.

Held, that the above Acts could not have the effect of operating the destruction of the rights of E. N. H., as *cestui qui trust*, whose right, if the moneys advanced had not been repaid, would be (she adopting the transaction of the trustees in taking the release) to the land, or to the mortgage plus the equity of redemption in case there was no merger. There was, therefore, an equitable

interest outstanding, if E. N. H.'s claim had not been satisfied, and this interest was not necessarily a matter of encumbrance or conveying but of title.

Bruce, Q.C., for the plaintiff.

Bicknell for the defendant.

Full Court.]

[June 21.]

QUEEN v. BUNTING.

QUEEN v. CREIGHTON.

Criminal procedure—Jurisdiction—Chancery Divisional sittings—Application to move absolute a rule nisi in a criminal matter.

Per BOYD, C.: The Divisional Sittings of the Court are now the equivalent for the former sittings in full Court in term at common law, or for the purpose of rehearing in Chancery, and the criminal jurisdiction vested in the High Court, not exercisable by a single judge is, by the effect of legislation, to be administered by Judges composing these Divisional Courts. Each division is to follow the same practice, and therefore the Chancery Division is empowered to use the criminal practice and procedure, which was formerly peculiarly limited to the common law courts.

Per FERGUSON, J.: Bearing in mind the provision (Cons. R., 218), under which the sittings of the Chancery Divisional Court at the time of this application were taking place, it had not the power to exercise the full jurisdiction of the High Court, such as it would have possessed if sitting under the provisions of the original Marginal Rule 480, s-s. (a) and (b), and had not a criminal jurisdiction. The other divisions of the High Court are not in the same position with regard to criminal jurisdiction.

Hellmuth for the motion.

W. R. Meredith, Q.C., and Hamilton Cassels, contra.

Full Court.]

[June 30.]

ABELL v. MORRISON.

Registry Act—Notice—Relief on ground of mistake—Subrogation.

On December 19th, 1887, the plaintiff registered a lien against certain lands. On the day before, the defendant, an intending purchaser, had searched the registry, and found only two incumbrances registered against the property.