tions: "In all cases . . . the delivery of goods will be considered complete and the responsibilities of the company shall terminate when the goods are placed in the company's shed or warehouse . . . when they shall have arrived at the place to be reached upon the railway of the company. The warehousing of them will be at the owner's risk"—who was to be liable for any charges for storing them otherwise than in the warehouse of the company. "Storage will be charged on all freight remaining in the depots over forty-eight hours after its arrival."

While the leather remained in the warehouse of the Railway Company, the purchaser requested that it might be stored by the company's servants, he agreeing to pay—but not paying—the charges for freight thereon, and subsequently the sheriff paid the charges thereon, seized the leather and removed the same from the stores of the Railway Co. under a writ of attachment sued out by the defendants.

Held, that this did not deprive the vendor of his right to stop the goods in transitu.

Robinson, Q.C., for the appeal.

J. K. Kerr, Q.C., and *A. Galt*, contra.

From Co. Ct., Middlesex.]

GARNER v. HAYES.

Contract.

One M. agreed with the defendant for the erection of a dwelling house for the defendant in two months from date, and if M. neglected to build the house defendant was to be at liberty to purchase material and employ workmen to finish it and deduct cost of material, etc., out of the contract price. The plaintiff agreed to supply M. with lumber to be used in the building, and M., after a portion of the lumber had been placed in the building, gave plaintiff an order on defendant for $341.46 "for lumber used in your house, one month after the building is completed," which the defendant accepted. M. failed to complete the building, and the defendant did so in accordance with the terms of the agreement.

Held (affirming judgment of the Court below), that to the extent of the balance of the agreed price for the building remaining in defendant's hands, he was liable to pay the plaintiff, notwithstanding M. did not complete the building, the terms of the order including lumber which had previously been used in the building as well as that subsequently placed therein.

Macbeth, for the appeal.

R. M. Meredith, contra.

QUEEN'S BENCH DIVISION.

Cameron, J.] [May 7.

SHAFFER v. DUMBLE.

Replevin — Detention — Conversion — Evidence— Married woman—Gift by husband—Separate estate—R. S. O. c. 125.

The plaintiff was executor of H. D., widow of T. D., whose executor the defendant was. The plaintiff claimed a piano in the house lately occupied by the widow, of which the defendant had the key. At an interview between the plaintiff and defendant, the latter claimed the piano, but said he was willing to leave the question of the ownership to a person to be named. The plaintiff left him, promising to write, and afterwards did write, saying he had decided to bring the matter before the proper court. Subsequently the plaintiff's solicitor wrote the defendant offering to release all demands upon the defendant giving up all claim to the piano, to which the defendant's solicitor answered that he could not comply with the demand. The defendant commenced an action, in which the title to the piano would come in question. The plaintiff's solicitor having again written to ask whether possession of the piano would be given, the defendant's solicitor wrote that it was perfectly safe where it was, and that the action commenced would decide the question. He also wrote that the plaintiff would not have to put the law in motion.

Held, in an action of replevin, assuming the piano to be the plaintiff's, that there was no evidence of trespass or conversion to support the affirmative of the issue that the defendant did not take or detain the piano.

The evidence showed that the husband had purchased the piano and had made a present of it to his wife by putting it in the house where