

Ont.] DUEBER WATCH CASE CO. v. TAGGART. [June 12.

Bankruptcy and insolvency—Assignments and preferences—Sale of assets—Extinguishment of debt—Composition—Release of debtor.

T. and C., doing business under the name of T. & Co., made an assignment for the benefit of creditors, and T. then induced the plaintiffs, creditors, to pay off a chattel mortgage on the stock and a composition of 25 cents on the dollar of unsecured claims, the plaintiffs to receive their own debt in full with interest. The assignee of T. & Co. then transferred all the assets to the plaintiffs, and the arrangement was carried out, the plaintiffs eventually re-conveying the assets to T., taking his promissory notes and a chattel mortgage as security. In an action against T. & Co. on the original debt:—

Held, affirming the judgment of the Court of Appeal, 26 A.R. 295, 35 C.L.J. 387, that the original debt was extinguished, and C. was released from all liability thereunder.

C. Millar, for appellants. W. Nesbitt, Q.C., for respondents.

Que.] TALBOT v. GUILMARTIN. [June 12.

Appeal—Jurisdiction—Action for separation de corps—Money demand.

In an action by a wife for separation de corps for ill treatment the declaration concluded by demanding that the husband be condemned to deliver up to the wife her property valued at \$18,000. The judgment in the action decreed separation and ordered an account as to the property.

Held, that no appeal would lie to the Supreme Court from the decree for separation; *O'Dell v. Gregory*, 24 Can. S.C.R. 661, followed; and the money demand in the declaration being only incidental to the main cause of action could not give the court jurisdiction to entertain the appeal. Appeal quashed with costs.

Stuart, Q.C., for motion. Fitzpatrick, Q.C., contra.

N.S.] STARR, SON & CO. v. ROYAL ELECTRIC CO. [June 12.

Principal and agent—Sale by agent—Commission—Evidence.

The appellants dealt in electrical supplies at Halifax, and had at times sold goods on commission for the respondents, a company manufacturing electrical machinery in Montreal. In 1897 the appellants telegraphed the respondents as follows: "Windsor electric station completely burned. Fully insured. Send us quotations for new plant. Will look after your interest." The reply to this was: "Can furnish Windsor 180 Killowatt Stanley two phase complete exciter and switchboard, \$4,900, including commission for you. Transformers, large sizes, 75 cents per light. . . ." The manager of the appellants went to Windsor, but could not effect a sale of this machinery. Shortly afterwards a travelling agent of the respondents came to Halifax and saw the manager, and they worked together for a time