

The order should therefore be, that the children be handed over to the father upon his satisfying the claim of the Children's Aid Society for their board and maintenance.

No order should be made concerning costs.

ROSE, J.

MAY 22ND, 1920.

THOMAS v. McTAVISH.

*Execution—Seizure and Sale by Sheriff of Company-shares—  
Previous Pledge of Shares to Creditor of Execution Debtor—  
Interest of Execution Debtor alone Exigible—Deposit of Share-  
certificate—Redemption—Costs.*

Action for a declaration of the plaintiff's title to certain shares of the defendant the Silver Islet Mining Company Limited.

The action was tried without a jury at Port Arthur.

F. R. Morris, for the plaintiff.

R. McKay, K.C., and A. J. McComber, for the defendants.

ROSE, J., in a written judgment, said that the controversy was as to the ownership of 15,000 shares of the capital stock of the defendant company, of the par value of \$5 each, claimed by the plaintiff under a transfer from the registered owner and by the defendant McTavish as the purchaser at a sale by the Sheriff under an execution against the goods of the registered owner.

One Hunter was the registered owner of 35,000 or 40,000 shares of the stock of the defendant company, an Ontario corporation. On the 18th October, 1917, he borrowed from the plaintiff at Milwaukee, where the plaintiff lived, \$5,000, giving him his (Hunter's) promissory note for the amount, with interest, dated the 16th October, 1917, payable at Milwaukee, 6 months after date. In the note was a statement that the maker had deposited therewith, as collateral security for the payment thereof, a certificate for 15,000 shares of the fully paid capital stock of the said company; and a power to sell the shares on default in payment of the note and to apply the proceeds on the maker's indebtedness, was added. It was admitted that the instrument was, by the laws of both Minnesota and Canada, a negotiable promissory note: Falconbridge on Banking and Bills of Exchange, 2nd ed., p. 783.

The certificate for 15,000 shares was handed to the plaintiff by Hunter on the 29th October, but was not then complete; it was handed back to Hunter to be completed and did not in fact