

to proceed and sell lands under writs, proceedings upon which had been stayed by the Act of the previous session.

At the time the conveyances complained of were made, the property conveyed by them could have been sold under legal process to satisfy the debt of the plaintiffs, it has continued so ever since, although for a time the power of actively enforcing the remedy against it appears to have been in suspense.

The demurrer on both grounds should be overruled.

Demurrer overruled.

GRANT v. HUNTER.

(IN CHAMBERS.)

Commission.—Issue under Real Property Act.

The court has no power to issue a foreign commission to take evidence upon an issue directed under the Real Property Act.

This was a matter under the Real Property Act of 1889, in which an issue had been directed to be tried before a judge. The defendant moved for an order for a commission to examine a witness at Edmonton, in the Northwest Territories, and to postpone the trial until it had been returned. The granting of a commission was opposed by the plaintiff on the ground among others, that there was no jurisdiction to order a commission except in an "action" depending in the court, and an interpleader issue, to which the present was similar was not an action.

C. W. Bradshaw, for defendants.

T. D. Cumberland, for plaintiff.

(25th July, 1890.)

TAYLOR, C.J.—The power of the court to issue foreign commissions, at least on the common law side, is derived from the