

Clarkson had pledged, *inter alia*, 10,000 shares of Crown Reserve. The bank sold this on the 10th July, part at 53, part at 53½ *ex dividend*, and received a 4 per cent. dividend. The question argued before us concerned this sale. It is said that this sale was improper, as the agreement operated to extend the time for payment of the debt, and the extended time had not expired, and because the sale was without notice.

The stock in question had been transferred to the bank in December, 1907. The account was then overdue, and the bank was not willing to grant any extension on the strength of this security. The letter acknowledging the transfer of this stock (12th December, 1907), threatened suit unless a large payment was made immediately. As the result of the correspondence, Clarkson conveyed to the bank certain real estate and certain other stock, subject to "the existing and continuing claim of the Bank of Hamilton, now amounting to \$45,000, and unpaid purchase-money on the real property."

The agreement in question recited that this property was to be held as security for the indebtedness in question, "all of which is overdue." No extension of time is given, but it is provided "that if the moneys so owing as aforesaid be not materially reduced and repaid within a period of three months" the bank may, on ten days' notice, sell the lands, and, on default of payment and 15 days after notice, may sell the lands and stocks thereby hypothecated.

There is nothing in this agreement from which an extension of time can be inferred; the three months' delay was given with reference to the lands and stock then pledged, and had no reference to the securities held by virtue of prior hypothecation. This agreement was not in fact delivered till the 29th June.

In the meantime the question of realising on this Crown Reserve stock had been the subject of discussion.

On the 27th April (the day before the day of the date of the agreement), Clarkson saw Boland, the bank's solicitor, and on the 28th Boland wrote Clarkson's solicitor stating: "He," Clarkson, "gave us instructions to sell the Crown Reserve stock when it reaches 50, and you had better get a letter in writing authorising us to sell this."

In answer to that, on the 1st May, the solicitor, after discussing the probable increase in price of this stock and the desirability of holding till 75 is reached, adds: "I will have a letter from him, however, on his return, giving you permission to sell." After some other correspondence as to the security and as to this stock, which makes it plain that the giving of the further secur-