

of 52 Vict., c. 12, providing that no further proceedings shall be had in a Division Court after a transcript to another Division Court without an order or affidavit.

Aylesworth, Q.C., and Chapple, for the appellant.

Farewell, Q.C., and E. D. Armour, Q.C., for the respondent.

BABY v. ROSS.

*Appeal to Court of Appeal—Order for commitment of judgment debtor—R.S.O., c. 47, s. 42
County Court appeal—Certificate of judge
Objection to security—Making away with property to defeat creditors—Direction to imprison debtor in gaol of any county where he may be found—Rule 932.*

1. An appeal lies to the Court of Appeal from an order of the judge of a County Court, in a County Court action committing the defendant to gaol, upon his examination as a judgment debtor, for concealing or making away with his property in order to defeat or defraud his creditors. Such an order is, in its nature, final, and therefore comes within s. 2 of s. 42 of the County Courts Act, R.S.O., c. 47, as controlled by the proviso at the end of the section.

2. It is not a valid objection to an appeal that the judge of the County Court has not, in certifying the proceedings, expressed in his certificate that they are certified "to the Court of Appeal."

3. The Court of Appeal will not entertain an objection to the security upon the appeal given in the County Court appealed from.

4. It appeared that the judgment debtor's wife had mortgaged her farm for the purpose of paying some of his debts, and that after the mortgage, instead of his continuing to work the farm for his own benefit or on shares with his wife as he had formerly done, he had agreed that until the mortgage was paid off he would work it for his wife alone.

Held, that this arrangement was not illegal nor unreasonable, and on no principle could it be said that it was a making away with property in order to defeat or defraud creditors.

5. The order directed that the defendant should be committed to the county gaol of L. or of any other county in which he might be found.

Held, that this was wrong and not warranted by Rule 932, but it was not a ground for setting the order aside altogether.

Aylesworth, Q.C., for the appellant.

W. R. Meredith, Q.C., for the respondent.

[March 8.]

MCGILL v. GRAND TRUNK RY. CO.

Principal and agent—Corporations—Railways—Carriers—Contract—Damages.

Where it was sworn that the foreman of the freight department at one of the defendant's stations agreed to have certain trees forwarded to a station not on the defendant's line, but on a connecting line, it was

Held, that this was evidence to be submitted to a jury of a contract to that effect binding the defendants, and that a nonsuit was wrong.

The measure of damages against carriers for non-delivery of trees considered.

Judgment of the County Court of Middlesex reversed, HAGARTY, C.J.O., dissenting.

G. W. Marsh for the appellants.

H. S. Osler for the respondents.

The Master-in-Ordinary.]

[March 16.]

WESTERN CANADA L. & S. CO. v. HEIMROD.

Redemption—Period of—Mortgage action.

Held, that the English practice giving one period for redemption for several subsequent mortgagees is in force here.

That there must be special reasons and circumstances shown to warrant a departure from the settled practice of the court in giving successive periods for redemption in ordinary mortgage cases, as illustrated by the decisions in *Cripps v. Wood*, 51 L.J. Chy. 584; *Lewis v. Aberdare and P. Co.*, 50 L.T. Rep. 451; *Edwards v. Martin*, 28 L.J. Ch. 49.

A. H. O'Brien for the plaintiffs.

E. T. English for the defendant Wagner.

R. McKay for other defendants.