

ditor's right of action for a declaration of lien in respect of the certificate of judgment registered in the land titles office and enforcement of same by a judicial sale.

*E. A. Deacon*, for plaintiff. No one for defendant.

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ANNOTATION ON THE ABOVE CASE IN DOMINION LAW REPORTS.

Etymologically, the word *Moratorium* is derived from the Latin word *moratorius*, denoting delay and, in the legal sense, it signifies the legal title to delay in making due payment, or a legislative authorization of suspension of payment. In England they are termed as the Postponement of Payment Acts.

A moratorium is either minor or major: a minor moratorium only applies to bills of exchange; a major moratorium includes all other debts except such as may be expressly reserved. In the Franco-Prussian war of 1870, the moratorium declared in France continued until the end of the war. There has been no moratorium in England for over a hundred years, but one has to go back to Napoleon's times to find a parallel for the present emergency. The British moratorium in the present war, as will be noted, may be classed as a major moratorium, since it practically applies to all payments, save those expressly excepted: 33 L.N. 257, 69 L.J. 475.

Moratory laws are an encroachment on vested rights and they should be subject to a strict construction: *Fisher v. Ross*, 19 D.L.R. 69, 72; 24 Man. L.R. 773, 778. They should, therefore, be construed as not to interfere with such rights to any greater extent than is expressly, or by necessary implication, provided: *Chapman v. Purtell*, *supra*, 25 Man. L.R. 76.

Discussing the Effect of War and Moratorium, Mr. Schuster, in his 2nd ed., 1914, at pp. 58, 59, says: "War is not carried on exclusively by the armed forces, and is not exclusively directed against the enemy state as such. The interference with commerce is a weapon which is not less deadly than the bullet or the shell. To injure all subjects of the enemy state, to dry up the springs of their prosperity, to raise the price of their food, and to impede their trade and their intercourse with the world is just as much a patriotic duty as to join in the actual fighting. Justice and equity are to be considered only in so far as the principal object, the infliction of the utmost possible injury to the inhabitants of the enemy country, is not impaired thereby. The Statutes, Orders and Proclamations issued since the outbreak of war do not override the common law rules giving effect to this principle, but are merely intended to make some undecided points clearer, and to fill up some obvious gaps. They certainly do not in any way attempt to mitigate the serious injustice to individuals which some of the rules on the subject entail."

The efficacy of the moratorium was clearly established during the Franco-Prussian War of 1870-71, when the French government from time to time introduced moratory laws and thus maintained the system of