

also held that the directors had no power to sell, as the provisions of the Companies Act Amendment Act, 1893, had not been complied with.

*Held*, on appeal to the Full Court that on the finding of the trial judge the sale should be set aside.

Per IRVING and MARTIN, J.J. The provisions of section 2 of the Companies Act Amendment Act, 1893, respecting the mode of sale of Company's assets are enabling and not restrictive.

*Duff*, for appellants. *W. J. Taylor*, for respondents.

Full Court, Vancouver.]

[May 16.

WILLIAMSON V. BANK OF MONTREAL.

*Maritime law—Goods in possession of receiver—Seizure under fi. fa. by sheriff—Jurisdiction of Supreme Court to direct interpleader—Practice.*

On 31st December, 1898, R. Williamson & Son commenced an action in rem in the Exchequer Court of Canada, British Columbia Admiralty District, against the ship *Manauense*, to enforce a mortgage of the ship and her equipment, including two steam launches known as *Vera* and *May*. The ship and launches were thereupon arrested by the marshal of the Court of Admiralty, and on 13th January, 1899, an order was made by the Local Judge in Admiralty (McCull, C.J.,) appointing W. A. Ward receiver to take possession of the said ship and launches, and on 19th January another order was made for the sale of the ship and launches. On 12th January, 1899, the sheriff for the County of Vancouver seized the launches under a writ of execution dated Jan. 7, 1899, issued in an action in the Supreme Court of British Columbia, in which the Bank of Montreal was plaintiff and T. T. Edwards, the registered owner of the ship, was the defendant; and upon a claim being made by the receiver, the sheriff applied for and obtained from Irving, J., on the 26th January, 1899, an order directing the trial of an interpleader issue in the Supreme Court, in which Williamson & Son should be plaintiffs and the Bank of Montreal defendant. The order provided that the issue to be tried should be whether at the time of the seizure by the sheriff the goods seized were the property of the plaintiffs as against the Bank and that it should be delivered by the plaintiffs within thirty days. On February 25, 1899, an order was made in interpleader proceedings by Irving, J., on the application of the Bank of Montreal restraining the receiver in Admiralty from proceeding with the sale of the launches until the hearing of the interpleader issue. The issue not having been delivered in accordance with the order of Jan. 26, 1899, the defendant (the Bank of Montreal) obtained a judgment barring the receiver from prosecuting any claim against the launches.

Williamson & Son appealed against both the interpleader order and the injunction order, and the appeal was argued before the full court at Vancouver on March 20, 1899.