Held, that all the circumstances necessarily known to the solicitor in the transaction of the business, must be assumed to have been known to the mortgagee, and the whole affair considered as one transaction contrived to evade the consequences of illegally preferring a particular creditor over others, and that, under the circumstances, the advance made was not a *bona fide* payment of money within the meaning of the statutory exceptions. Appeal allowed with costs.

Gibbons, Q.C., for the appellants. *Ritchie*, Q.C., for the respondent Wilson *John J. Scott*, fo the respondents, the W. E. Sanford Man. Co.

Ontario.] SMALL *v.* THOMPSON. [Dec. 9, 1897.

Mortgage—Married women—Implied contract—Disclaimer.

Where a deed of lands to a married woman, but which she did not sign, contained a recital that as part of the consideration the grantee should assume and pay off a mortgage debt thereon and a covenant to the same effect with the vendor, his executors, administrators and assigns, and she took possession of the lands and enjoyed the same and the benefits thereunder without disclaiming or taking steps to free herself from the burthen of the title, it must be considered that in assenting to take under the deed she bound herself to the performance of the obligations therein stated to have been undertaken on her behalf, and an assignee of the covenant could enforce it against her separate estate. Appeal allowed with costs.

Armour, Q.C., for the appellant. *Aylesworth*, Q.C., for the respondent.

Ontario.] MALONEY *v.* CAMPBELL. [Dec. 9, 1897.

Conveyance subject to mortgage—Obligation to indemnify—Assignment of—Principal and surety—Implied contract.

The obligation of a purchaser of mortgaged lands to indemnify his grantor against the personal covenant for payment may be assigned even before the institution of an action for the recovery of the mortgaged debt, and, if assigned to a person entitled to recover the debt, it gives the assignee a direct right of action against the person liable to pay the same. Appeal dismissed with costs.

C. H. Ritchie, Q.C. (*Boland* with him), for the appellant. *McPherson* and *Clark*, for the respondent.

Ontario.] BANK OF HAMILTON *v.* HALSTEAD. [Dec. 9, 1897.

Banking—Collateral security—R.S.C. c. 120, Schedule "C"—53 Vict., c. 31, ss. 74, 75—Renewals—Assignments.

An assignment made in the form "C" to the "Bank Act" as security for a bill or note given in renewal of a past due bill or note, is not valid as a security under the seventy-fourth section of the "Bank Act."

The judgment of the Court of Appeal for Ontario (24 Ont. App. R. 152) affirmed. Appeal dismissed with costs.

John J. Scott, for appellant. *Gibbons*, Q.C., and *Henderson* for respondent.