

Full Court.]

[Jan. 19.

SHEDIAC BOOT AND SHOE CO. v. BUCHANAN.

*Bill of sale—Held bad as against creditors—Levy by sheriff under executions—Held an "action or proceeding" to impeach or set aside.*

Under the provisions of R.S.N.S. (1900) c. 145, s. 4 (1). "Every transfer of property by an insolvent person (a) with intent to defeat, hinder, delay, or prejudice his creditors, or any one or more of them; or (b) to or for a creditor with intent to give such creditor an unjust preference over the other creditors of such insolvent person, or over any one or more of such creditors, shall as against the creditor or creditors injured, delayed, prejudiced or postponed, be utterly void. (2). If any such transfer to or for a creditor has the effect of giving such creditor a preference over the other creditors of such insolvent person, or over any one or more of them, such transfer shall (a) in and with respect to any action or proceeding which is brought, had or taken to impeach or set aside such transfer within sixty days after the giving of the same; be presumed to have been made with intent to give such creditor an unjust preference as aforesaid, and to be an unjust preference whether such transfer was made voluntarily or under pressure."

In an action by plaintiff company against the sheriff of the County of Cape Breton for the conversion of goods levied upon by defendant under executions issued on judgments recovered against R., plaintiff's title to the goods depended upon a bill of sale from R. The evidence shewed that R. was an insolvent person, and the effect of the giving of the bill of sale was to give plaintiffs a preference over the other creditors of R., and the levy made by defendant was made within sixty days from the giving of the bill of sale.

*Held*, that the levy was "an action or proceeding" had or taken to set aside the transfer within the meaning of the Act, and that under the provisions of sub-s. (2) the bill of sale must be presumed to have been made with intent to give an unjust preference and to be such preference whether made voluntarily or under pressure, and that as against the creditors represented by defendant it was utterly void.

*O'Connor*, and *F. Macdonald*, in support of appeal. *Harrington*, *K.C.*, and *Fullerton*, contra.

Full Court.]

FARQUHAR v. McALPINE.

[Jan. 19.

*Pilotage Act—"Exempted ship."*

Under the terms of the Pilotage Act, R.S.C. c. 8, s. 59, as amended by Act of 1900, c. 36, s. 14, the following ships, called "exempted ships," are exempted from the compulsory payment of pilotage dues. "(c) Ships employed in trading . . . between any one or more of the Provinces of Quebec, New Brunswick, Nova Scotia or Prince Edward Island, and any