

corporation was attached. No by-law was, however, passed authorizing the purchase. The engine was sent by the plaintiffs to Palmerston, but was not accepted by the defendants.

*Held*, that the want of a by-law was fatal, and the instrument under the seal of the corporation invalid.

Judgment of the Divisional Court of the Chancery Division, reported 20 O.R. 411, affirmed.

*Wilkes*, Q.C., for appellants.

*A. M. Clarke* for respondents.

#### TENNANT v. UNION BANK.

*Warehouse receipt—Bank Act—Promise to transfer warehouse receipts—Goods in transit.*

Christie, Kerr & Co. entered into an agreement with Peter Christie whereby the latter agreed to make advances to the firm for the purpose of enabling them to get out logs from the woods, the firm agreeing that Peter Christie should have security upon the logs and the lumber to be manufactured therefrom. Peter Christie borrowed the money from the Federal Bank, assigned the agreement to the bank, and advanced the money to the firm as agreed. The defendants subsequently arranged with Christie, Kerr & Co. and Peter Christie to advance the money to pay off the Federal Bank, the firm and Peter Christie on their part giving to the defendants as security a document in the form of a warehouse receipt on the logs which were then in course of transit to the mill, and further promising to give warehouse receipts on the lumber when manufactured from the logs. Warehouse receipts were given to the defendants upon the manufactured lumber stored in the firm's yard. The firm became insolvent, the defendants seized the lumber, and this action was brought by the firm's assignee for the benefit of creditors for the alleged wrongful seizure and conversion.

*Held* (BURTON, J.A., dissenting), that the promise made to the bank supported the subsequent transfer to them of the warehouse receipts for the manufactured lumber under s. 53, s-s. 4 of the Bank Act (R.S.O., c. 120), and were consequently valid.

The document given to the defendants at the time of the arrangement with them was not a valid warehouse receipt within the meaning of the Act, as the logs were then in transit.

Judgment of ROYD, C., delivered 4th June, 1890, affirmed.

*McCarthy*, Q.C., for appellant.

*Robinson*, Q.C., for respondents.

#### HIGH COURT OF JUSTICE.

##### Chancery Division.

Div'l Court.]

[Dec. 5.

GIBBONS v. TOMLINSON.

*Husband and wife—Conveyance taken in wife's name—Effect of.*

In December, 1885, W.T. purchased certain land, paying the purchase money himself, but caused the conveyance to be taken in his wife's name. In 1888, at the request of the husband, the wife executed a declaration of trust in favor of G.T., and in 1870 she executed a deed thereof to him for \$1200. In an action by a creditor of the wife to have such deed set aside,

*Held*, by FALCONBRIDGE, J., that on the evidence the conveyance to the wife must be treated either as a gift or for the purpose of protecting the property against the husband's creditors, and the conveyance by the wife to G.T. could not therefore stand, but must be set aside.

On appeal to the Divisional Court,

*Held*, that so far as the fact of its being a gift the evidence did not so establish, but rather that the conveyance was taken in the wife's name to please her, and that whether so taken or as a protection against creditors, in either event the conveyance by the wife was valid.

*Lash*, Q.C., for the plaintiff.

*Fullerton*, Q.C., for the defendant.

Div'l Court.]

[Dec. 23.

STEVENSON ET AL. v. DAVIS.

*Vendor and purchaser—Possession at once—Payment of interest until conveyance made—Delay in completion—Appropriation of money.*

In a contract for the sale of land where possession is taken at once and the contract stipulates for the payment of interest, the purchaser must pay interest from the date of the contract, unless there should be unreasonable delay in the completion attributable to the vendor, and