

*Held*, that it was not necessary to determine whether the mother took absolutely, or whether, if she had not taken absolutely, a trust was created, or a power, inasmuch as even if a trust was created in the mother, the conveyance by the mother operated, and was intended to operate, as an execution of the trust, although the whole was granted to one daughter only.

*F. E. Hodgins*, K.C., for plaintiff. *Rose*, for defendants.

Mabee, J.]

[Nov. 6, 1906.

RE BADEN MACHINERY COMPANY.

*Costs—Company—Costs of alleged contributories payable out of assets—Deficiency of—Costs of petitioning creditor—Liquidator's costs and compensation—Priority—Abatement.*

On the application of the liquidator of a company directed to be wound up an order was made by a local judge directing H. and S. to be placed on the list of contributories which was affirmed by a judge of the High Court and by the Court of Appeal, but was reversed by the Supreme Court with costs to be paid by the liquidator as well of that Court as of the prior appeals,

*Held*, that H. and S. were entitled to their costs out of the assets of the estate in priority to those incurred by the liquidator—the reasonableness of the liquidator's claim forming no element in the matter—but subject to such as were incurred by the liquidator in the realization of any assets, as well as a reasonable sum as compensation for his care and trouble in such realization.

*Middleton*, for H. and S. *J. E. Jones*, for petitioning creditor. *J. C. Haight*, for liquidator.

Britton, J.]      *BELL v. GODISON THRESHER CO.* [Nov. 14, 1906.

*Venue—Contract—6 Edw. VII. c. 19, s. 22 (O.)—Retroactivity.*

An action was brought in the High Court by the purchasers of a machine against the sellers, for a return of money paid on the agreement of sale, damages for breach thereof, the return of the plaintiffs' promissory notes given thereunder, and cancellation of the agreement. The plaintiffs based their action upon a