

of the appeal, but should pay the costs of that branch of it upon which he has failed, if there be any separable from the general costs.

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SEPTEMBER 20TH, 1911.

McPHERSON v. TEMISKAMING LUMBER CO.

*Timber—Crown Timber Act, R.S.O. 1897 ch. 32—License to Cut—Judgment against Licensee—Execution—Assignment of Timber License to Bank—Injunction—Notice—Seizure of Cut Timber—Bank Act, secs. 80, 84—Validity of Assignment—Lien—Transfer of License to Purchasers—Interpleader.*

Appeal by the defendants and cross-appeal by the plaintiffs from the judgment of TEETZEL, J., 2 O.W.N. 553.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

G. H. Kilmer, K.C., for the defendants.

W. Laidlaw, K.C., for the plaintiffs.

GARROW, J.A.—The plaintiffs were execution creditors of A. McGuire & Co., Annie McGuire, and Andrew Devine, which, in the case of the plaintiff Booth, also included Cornelius McGuire, under which the Sheriff of Nipissing seized certain saw-logs alleged to be the property of the execution debtors, or of some of them. An interpleader issue was directed, the logs having been claimed by the defendants the Temiskaming Lumber Company Limited, and was determined by Teetzel, J., in favour of the defendants as to all the executions, except that of the plaintiff McPherson of the 30th November, 1909, as to which the learned trial Judge found in favour of the plaintiff McPherson.†

The defendants now appeal, and the plaintiffs cross-appeal.

The facts are fully stated by Teetzel, J., in his judgment, and need not be here repeated at any length.

It is, I think, obvious that his judgment in the plaintiff's favour mainly rests upon the effect which he gave to the interim injunction. But for that I infer that his finding would have been otherwise. It is not necessary to pronounce an opinion