

GALT, C.J.]

[April 27.]

UNION BANK v. NEVILLE.

Constitutional law—Assignments and preferences—R.S.O., c. 124, s. 9—Ultra vires—Bankruptcy and insolvency.

Section 9 of the Assignments and Preferences Act, R.S.O., c. 124, providing that an assignment for the general benefit of creditors under that Act shall take precedence of all judgments and of all executions not completely executed by payment, etc., gives to the assignment a much greater effect than the assignor could give; it is a provision relating to bankruptcy and insolvency, and therefore *ultra vires* of a Provincial Legislature, by s-s. 21 of s. 91 of the B.N.A. Act.

W. R. Meredith, Q.C., for the plaintiffs.

Beck for the assignee of the judgment debtors.

Middleton for the Sheriff of Carleton.

Robinson, Q.C., for the Minister of Justice for Canada.

Irving, Q.C., for the Attorney-General for Ontario.

Chancery Division.

BOYD, C.]

[March 25.]

ALDOUS v. HICKS.

Purchaser of equity of redemption—Covenant to pay mortgage—Action by mortgagee against purchaser.

Held, that though the purchaser of an equity of redemption, when he covenants to pay the existing mortgage upon the property, becomes primarily liable for the mortgage debt as between himself and the mortgagor, that does not create any privity of contract between him and the mortgagee; and no right of action arises to the mortgagee whereby he can recover the mortgage debt directly from the purchaser.

F. Mackelcan, Q.C., for the plaintiff.

J. T. Small for the defendant Hicks.

Practice.

MEREDITH, J.]

[December 10.]

CORNELL v. SMITH.

Parties—Action to establish will—Next of kin of testator—Adjournment of trial—Removal of case from Surrogate Court.

The plaintiffs propounded a will in a Surrogate Court under which they took the whole estate and were named as executors. The defendant, who was one of the next of kin, all having an equal interest if the will was invalid, contested its validity and the case was removed into the High Court. The other next of kin also disputed the will, but were not acting in concert with the defendant.

Upon an objection taken by the defendant at the trial,

Held, that the other next of kin should be made parties; and the trial was adjourned for that purpose, it appearing that they could conveniently be added.

Lount, Q.C., and Heighington, for the plaintiffs.

Osler, Q.C., and H. S. Osler, for the defendant.

MEREDITH, J.]

[April 16.]

WAGNER v. O'DONNELL.

Report—Appeal from—Summary proceedings to enforce mechanics' lien—53 Vict., c. 37, ss. 13, 35 (O.)—Rule 850—Court or Chambers.

In summary proceedings under the Act to simplify the procedure for enforcing mechanics' liens, 53 Vict., c. 37 (O.), the appeal to a Judge in Chambers under section 35 is confined to orders and certificates; the final report under section 13 is not included in the words "orders and certificates," and the appeal from such a report shall be to a Judge in Court under Rule 850.

H. C. Fowler for the plaintiffs.

McCabe for the defendants, Norton and McCabe.

G. C. Campbell for the mortgagee.