

Act, and by the National Match Co. (of Illinois), suing on behalf of themselves and all other creditors of the insolvent company, for a declaration that certain securities and mortgages taken by the defendant bank from the insolvent company were invalid, for an account of the assets, goods, wares, and merchandise of the insolvent company held by the defendant bank and of the proceeds of the sale of any part thereof sold, and for delivery of the securities to the plaintiff liquidator.

The action was tried without a jury at St. Thomas.

Sir George Gibbons, K.C., and *J. B. Davidson*, for the plaintiffs.

D. L. McCarthy, K.C., and *A. W. Langmuir*, for the defendant bank.

SUTHERLAND, J.—The Thomas Brothers, Limited, an incorporated company, was engaged in business at the city of St. Thomas as wholesale manufacturers of various kinds of woodenware. They were customers of the Dominion Bank at its branch in that city and had a line of credit. Having got into financial difficulties, a petition was on the 28th March, 1914, filed by the defendant bank, and a winding-up order was made on the 1st May following. The plaintiff *G. T. Clarkson* was appointed liquidator, and the company is in course of liquidation.

The National Match Company is incorporated under the laws of the State of Illinois, and is a creditor of the insolvent company to the extent of about \$14,000.

In the course of the dealings between the bank and its customer certain securities and mortgages were taken by the former from the latter. In this action the plaintiffs are the said liquidator and the National Match Company, which latter sues on behalf of themselves and all other creditors of the insolvent company, and the plaintiffs' claim is that said securities and mortgages be set aside and declared void as against the plaintiffs and the other creditors of the insolvent company, for an account of the assets, goods, wares and merchandise of the said insolvent company held by the bank, and the proceeds of the sale of any part sold and received by it, and for an order for delivery and payment to the liquidator.

Thomas Brothers, Limited, manufactured certain lines, such as woodenware, screen doors, brushes and the like, and dealt as buyers and jobbers in certain other lines, such as baskets, matches,