

In Equity, Barker. J.]

[Nov. 26, 1901.

BANK OF MONTREAL v. MARITIME SULPHITE FIBRE CO.

Company—Winding-up—Debenture holder's mortgage—Covering mortgage—Receiver—Liquidators.

In a suit to enforce a mortgage to secure debentures issued by the defendant company, a receiver was appointed. Subsequently a winding-up order was made against the company, and liquidators were appointed. The liquidators disputed the validity of the mortgage, and the extent of the property covered by it.

Held, that there being a conflict of interests between the mortgagees and the general creditors, the receiver should not be discharged and the liquidators appointed to act in his place.

An order appointing a receiver on behalf of debenture holders secured by mortgage was varied to be limited to property described in the mortgage.

Pugsley, K.C., and *Lawlor*, K.C., for official liquidators. *McLean*, K.C., for debenture holders.

Province of British Columbia.

SUPREME COURT.

Full Court.]

[March 7, 1901.

FAWCETT v. CANADIAN PACIFIC R.W. CO.

Appeal from interlocutory order—Action decided pending appeal.

This was an appeal from an interlocutory order, and pending the appeal the action had been tried and decided. The Full Court ordered that the appeal be struck out of the list, refusing to accede to the request of appellant's counsel, who wanted the appeal to go on to decide the question of costs.

Davis, K.C., for appellant. *Wilson*, K.C., for respondent.

Note.—The same course was followed subsequently, March 19, 1901, in *Chisholm v. Le Roi*, and Nov. 19, 1901, in *McCune v. Botsford*.

Full Court.] CANADIAN DEVELOPMENT CO. v. LE BLANC. [May 6, 1901.

Yukon law—Appeal to Supreme Court of British Columbia—62 & 63 Vict., c. 11, s. 7—Collision—Damages—How assessed—Non-observance of Canadian sailing rules—Practice—Costs—Preliminary Act—Order XIX., Rule 28 of the English Rules.

Appeal from a judgment of DUGAS, J., in the Territorial Court of the Yukon Territory. The plaintiffs sued for \$408 damages sustained by their

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