

of the sum of \$2,935 paid in by the plaintiff and interest thereon from the 5th April, 1918; (3) a lien for these amounts on the surplus assets after discharge of the bona fide partnership liabilities; (4) subrogation to the rights of the partnership creditors in respect of the payments made by the plaintiff to them; (5) indemnification by the defendant of the plaintiff against the partnership debts and liabilities.

There should be a reference to the Master at Goderich to find the amount of the bona fide partnership debts and liabilities, with leave to appoint a receiver, if the plaintiff so desires, to wind up the affairs of the partnership.

The counterclaim should be dismissed with costs.

The defendant should pay the plaintiff's costs of the action.

LOGIE, J.

JULY 9TH, 1919.

MAIZE v. GUNDRY.

Partnership—Liability of Firm for Debt of Partner—Fraud—Evidence—Novation—Assignment by one Partner in Firm's Name for Benefit of Creditors—Invalidity—Assignments and Preferences Act, sec. 12—Estoppel—Damages—Winding-up of Partnership—Costs—Injunction.

Action by W. T. Maize against Thomas Gundry, claiming to be the assignee for the benefit of creditors of the estate and effects of the firm of McFarlane & Maize, and against Thomas G. Allen and James C. McFarlane, for a declaration that the defendant Allen was not a creditor of the firm of McFarlane & Maize and not entitled to rank as such on the assets of the firm; for a declaration that an assignment made by the defendant McFarlane, in the name of the firm, to the defendant Gundry, was void and inoperative, and to have the same and all proceedings thereunder set aside; for an injunction restraining the defendants from dealing further with the assets of the firm; and for other relief.

The action was tried (with the action of Maize v. McFarlane, ante), without a jury, at Goderich.

Charles Garrow, for the plaintiff.

William Proudfoot, K.C., and J. L. Killoran, for the defendants.

LOGIE, J., in a written judgment, said that the defendants Allen and McFarlane carried on business in partnership as general merchants, at the village of Dungannon, from June, 1915, till