and, perhaps, could not withdraw until a reasonable time elapsed for the procurement of the signatures or the assent of the others, although that may not be so clear. However that may be, it never was assented to by all the creditors, and the assignee sold the property to the defendant Hersee, and as the consideration for the sale procured the covenant in question, which provides for the payment of both classes, both those who had accepted the composition and those who had not. It may be that plaintiffs could legally claim that they had not assented to the deed so as to be bound thereby, by reason of the condition referred to, and I incline to think they could, but it is proved, and is so found by the learned Judge, that before the sale they had notified the assignee that they repudiated it on the ground of misrepresentations whereby they had been induced to execute it, and that defendant Hersee was informed of that repudiation before he made his purchase. That being so, I think the plaintiffs are persons who had not accepted the composition within the meaning of the covenant, and whom Hersee covenanted with the assignee to pay in full in case no more favourable settlement could be made with them. . . . I think it is impossible, after the sale has been carried out and completed, to qualify the trust and the covenant by the recitals. I think the appeal ought to be dismissed.

Appeal allowed; MACLENNAN, J.A., dissenting.

MEREDITH, J. OCTOBER 10TH, 1902.

CHAMBERS.

RE BRANDON v. GALLOWAY.

Prohibition—Division Court — Amount Involved — Action for Tort— Costs.

Motion by defendant for prohibition to the 10th Division Court in the county of York, on the ground that the amount claimed and adjudged to plaintiff, $75, was beyond the Division Court jurisdiction, the action being one under the Workmen's Compensation Act to recover damages for injuries to plaintiff in defendant's factory by the alleged negligence of a fellow-servant.

John Greer, for defendant.

D. M. Defoe, for plaintiff.