Central Bank, appealed upon the ground that the transfer of the shares in question to him was a fraudulent transaction, perpetrated in the face of sec. 45 of the Banking Act, inasmuch as the Bank was trafficking in its own shares for the purpose of keeping up the appearance of bonâ fide sales, and so enhancing the price at which the shares of the Bank were being quoted in the market; and that the Bank took the appellant's notes for the price of the shares, undertaking that the notes should not be enforced, but, on a re-sale of the shares, should be delivered up to be cancelled; and that the said transactions were *ultra vires* of the Bank.

Held, that all this amounted to no defence against the liquidators, who represented the creditors of the Bank, and not the Bank alone. What rights the appellant might have as against the directors of the Bank, or other shareholders, was a different matter.

As to certain other shares, in respect to which the appellant had been placed upon the list of contributories, he appealed upon the ground that he had acquired them within one month before the suspension of the Bank, referring to sec. 77 of the Banking Act; and, also, on the ground that those who had transferred their shares to him within the period of one month before the suspension should have also been placed on the list.

Held, that the appellant was rightly placed upon the list as to these shares, but that those also who had transferred their shares within the month should be likewise put upon it.

A. C. Galt, for the appellant.
W. R. Meredith, Q.C., *contra*.

FERGUSON, J.] [Feb. 2.

COURSOLLES *v.* FOOKES, *et al.*

Fraudulent mortgage—Set aside by execution creditors—Priority between execution creditor and subsisting second mortgage—Costs.

C., an execution creditor, brought an action to set aside two mortgages made by his execution debtor to F. and H. respectively, and succeeded as to the mortgage made to F. In an application to decide the priority between C. and the remaining mortgagee, H., in which it was claimed that C. was entitled to the benefit of his diligence, and that to the extent of the mortgage set aside he should have priority over H. It was

Held, that C. was not entitled to any such priority, but that he was entitled to the difference between his solicitor and client costs, and such costs as he should recover from the defendants as in the nature of salvage.

Shepley, for the motion.
S. H. Blake, Q.C., *contra*.

Practice.

MACMAHON, J.] [Feb. 5.

RICE *v.* FLETCHER.

Arrest—Foreigner in Ontario temporarily—About to return home—Intent to defraud—Order to hold to bail.

The plaintiff claimed $20,000 damages from the defendant, the cause of action being criminal conversation with the plaintiff's wife. The defendant lived in the United States, but was here for a temporary purpose when the plaintiff had him arrested under an order to hold to bail.

The plaintiff in his affidavit sworn to on the 30th January, on which the order was granted, stated that the defendant had arrived in Toronto that morning, and that he intended to leave for his own country that night with intent to defraud the plaintiff of the damages he had sustained. Upon a motion for the defendant's discharge,

Held, that in leaving Ontario, he was not doing so with the intent to defraud the plaintiff, and was therefore entitled to be discharged. *Ex. p. Gutierrez*, 11 Chy. D. 298, specially referred to.

Bigelow, for plaintiff.
Tilt, Q.C., for defendant.

STREET, J.] [Feb. 16.

LUCAS *v.* CRUICKSHANK.

Security for costs—Rule 1243—Identity of cause of action.

The plaintiff, as administrator of his late wife, brought this action under R.S.O. c. 135, to recover compensation for her having been killed by reason of alleged negligence of the defendants.