

DIARY FOR FEBRUARY.

1. Mon. Hilary Term begins. Q.B. and C.P. Divisions of H.C.J. sittings and County Court non-jury sittings in York begin. Sir Edward Coke born, 1552.
6. Sat. W. H. Draper, 2nd C.J. of C.P., 1856.
7. Sun. 5th Sunday after Epiphany.
9. Tues. Union of Upper and Lower Canada, 1841.
10. Wed. Canada ceded to Great Britain, 1763.
11. Thur. T. Robertson appointed to Chancery Division, 1887.
13. Sat. Hilary Term and High Court of Justice sittings end.
14. Sun. Septuagesima Sunday. Toronto University burned, 1890.
16. Tues. Supreme Court of Canada sits.
18. Thur. Chancery Division H.C.J. sits.
21. Sun. Sexagesima Sunday.
24. Wed. St. Matthias.
27. Sat. Sir John Colborne, Administrator, 1838.
28. Sun. Quinquagesima Sunday. Indian Mutiny began, 1857.

Reports.

ONTARIO.

(Reported for THE CANADA LAW JOURNAL.)

FOURTH DIVISION COURT, COUNTY OF ONTARIO.

TEMPERANCE INS. CO. v. COOMBE.

Exemptions—Absolute right to—Fraudulent preferences.

Exemptions are at the absolute disposal of the execution debtor, and it is not a fraudulent preference to hand them over to one creditor in payment of a debt in preference to another creditor.

(Whitby, January, 1892.)

The subject matter of this interpleader were certain chattels, which were admittedly exempt, but which the plaintiffs contended became liable to seizure, because the defendant had transferred them to the claimant in satisfaction of a debt due to him.

DARTNELL, J.J.: The contention is founded upon a fallacy. The debtor has an absolute *jus disponendi* over the exemptions. He is not compelled to keep them in his possession in order that they should retain the character of exemptions. If sold, he is entitled to the proceeds in money, which he can deal with as he likes; and after his death his widow has the same right as he himself had.

At common law a debtor has a right to prefer his creditor. A preference is fraudulent only by virtue of the statute, and the plaintiff cannot be placed in any better position than if the chattels had remained in the defendant's hands. There can be no fraudulent transfer of

chattels which in no case could be reached by execution.

There will be judgment for the claimant with costs.

T. W. Chapple for the claimant.

A. J. Reid for the execution creditors.

Early Notes of Canadian Cases.

SUPREME COURT OF CANADA.

Ontario.]

[Nov. 16.]

QUIRT v. THE QUEEN.

Constitutional law—Validity of Dominion acts—31 Vict., c. 17 (D.)—33 Vict., c. 50 (D.)—Banking and incorporation of banks—Bankruptcy and insolvency—Taxation—Exemption—Crown lands—Beneficial interest of Crown.

The Bank of Upper Canada was insolvent when the British North America Act was passed, and all its property and assets had been transferred to trustees. By 31 Vict., c. 17, the Dominion Parliament ratified the assignment and constituted the trustees a body corporate with power to carry on the business of the bank as far as was necessary for winding up the same. By 33 Vict., c. 50, the same Parliament transferred all the property and assets of the bank to the Dominion Government. Subsequently a piece of land included in said assets was sold by the Government and a mortgage taken for the purchase money. This land was assessed by the municipality in which it was situated and sold for unpaid taxes. In a suit to set aside this tax sale,

Held, affirming the judgment (*sub-nomine Regina v. The County of Wellington*) of the Court of Appeal (17 O.R. 615), that said Acts of the Dominion Parliament were *intra vires*.

Per RITCHIE, C.J.: Parliament, having legislative jurisdiction over "Banking and the Incorporation of Banks" and over "Bankruptcy and Insolvency," could pass the Acts in question.

Per STRONG, TASCHEREAU, and PATTERSON, J.J.: The right of the Dominion Parliament to pass the said Acts cannot be referred to its right to legislate with respect to "Banking and the Incorporation of Banks," but is derived from its jurisdiction over "Bankruptcy and Insolvency."