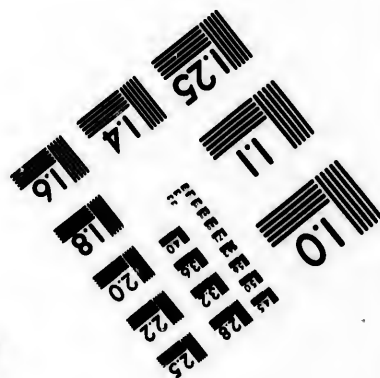
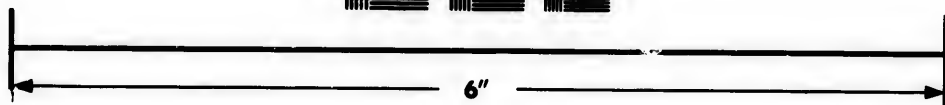
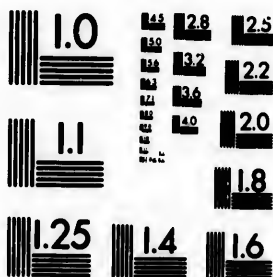


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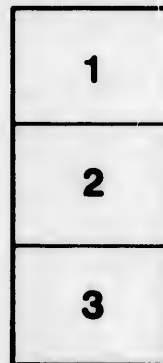
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IN THE  
SUPREME COURT OF THE NORTHWEST TERRITORIES

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APPEAL FROM  
The Supreme Court of the Northwest Territories, Northern  
Alberta Judicial District.

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STOBART, ET AL.

(Defendants.) Appellants.

—AND—

SHOREY, ET AL,

(Plaintiffs.) Respondents.

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APPEAL BOOK.

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SMITH & WEST,  
Advocates for Appellants.

} LOUGHEED, McCARTHY & BECK,  
Advocates for Respondents.

Calgary Herald Print.



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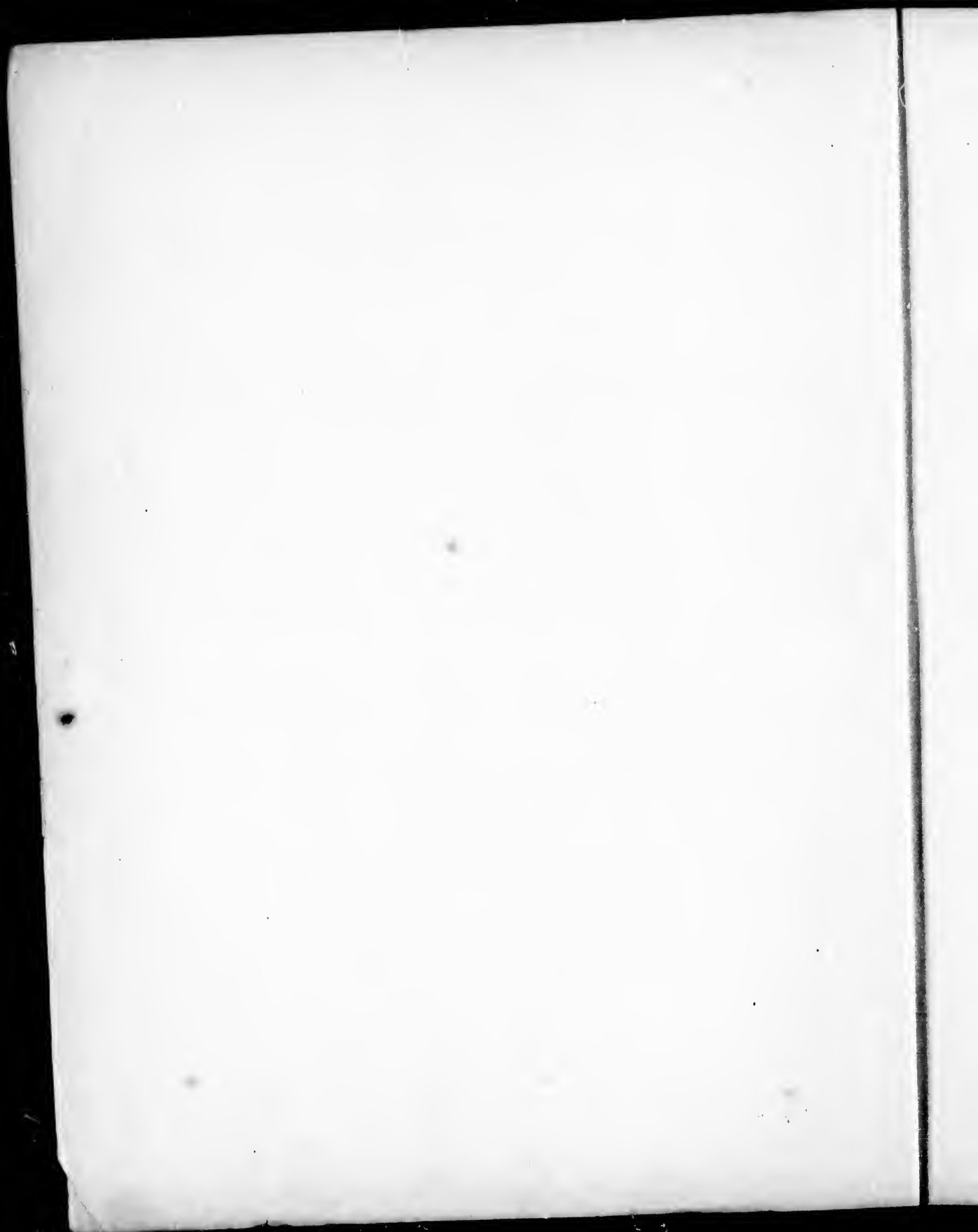
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SMITH & WEST,  
Advocates for Appellants.

} LOUGHEED, McCARTHY & BECK,  
Advocates for Respondents.

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Calgary Herald Print.





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**IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.**

**BETWEEN**

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**H. SHOREY & Co., JOHN MYLES O'LOUGHLIN AND MACROY  
O'LOUGHLIN, trading as O'LOUGHLIN BROS. & Co., CAMPBELL,  
SPERA & Co. LYON, MACKENZIE & POWIS, A. A. MACKENZIE  
AND E. M. MILLS, trading as MACKENZIE & MILLS, and  
the AMES HOLDEN COMPANY, LIMITED. Plaintiffs.**

and

**STOBART SONS & Co.**

**Defendants.**

20

**STATEMENT OF CLAIM.**

—o—

1. The plaintiffs, other than H. Shorey & Co., are merchants carrying on business in the City of Winnipeg, in the Province of Manitoba, and the plaintiffs, H. Shorey & Co., reside and carry on business in the City of Montreal, in the Province of Quebec.
- 30 2. The defendants are merchants, and carry on business in the said City of Winnipeg.
3. For some time prior to the 19th day of March, 1888, one E. H. Riley was carrying on business in the Town of Calgary, in the said Judicial District, under the name and style of E. H. Riley & Co., and was indebted to the plaintiffs and defendants in large sums of money for goods sold and delivered by the plaintiffs and defendants to him, and had become greatly embarrassed financially and unable to pay his debts in full, and was then in fact insolvent.
4. Shortly prior to the said 19th day of March, the said E. H. Riley and one Georgina Jane

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Hornsfield Riley, who is his mother, conceived the fraudulent scheme of defeating and defrauding the plaintiffs and defendants out of their said claims against him the said E. H. Riley, and in order the better to carry out such fraudulent scheme the said E. H. Riley procured his said mother, Georgina Jane Hornsfield Riley, to commence an action against him, her said son, in this honorable court in the said Judicial District, and on or about the said 19th day of March, 1888, in furtherance of said fraudulent scheme, the said E. H. Riley and Georgina Jane Hornsfield Riley caused judgment to be entered in said action in favor of the said Georgina Jane Hornsfield Riley for the sum of \$2,541.42 debt and costs, although the said E. H. Riley was not indebted to his said mother in any sum whatever, and caused a writ of execution to be issued upon said judgment, 10 and placed in the hands of the Sheriff of the said Judicial District wherein the said E. H. Riley carried on business, and the said E. H. Riley and Georgina Jane Hornsfield Riley caused the said Sheriff to levy upon the goods and chattels of the said E. H. Riley under said execution, and the Sheriff has sold a large part of said goods and received a large sum of money therefor, and the said Sheriff now holds such money, and a large quantity of such goods still remain unsold and in the custody of the said Sheriff under seizure as aforesaid.

5. The said plaintiffs and defendants shortly after the said 19th day of March, 1888, recovered judgment in this honorable court upon their respective claims against the said E. H. Riley and placed writs of execution in the hands of said Sheriff upon their said respective judgments; and the plaintiffs' said writs of execution have been ever since, and now are, in the hands of the said 20 Sheriff in full force and virtue for execution, but the defendants' writ of execution was as herein-after stated, withdrawn from the hands of the said Sheriff.

6. After the plaintiffs and defendants had so placed writs of execution in the hands of said Sheriff, they immediately notified the said Sheriff in writing that they claimed the said goods of the said E. H. Riley, or the proceeds thereof so seized by him as aforesaid under their several executions, on the ground that the said judgment of the said Georgina Jane Hornsfield Riley, against the said E. H. Riley, was not bona fide, but was obtained by fraud and collusion and without value, and in consequence of such claims the said Sheriff obtained an interpleader order from the Honorable Charles B. Rouleau, the judge of this honorable court, which interpleader order directed an issue to be tried, when the plaintiffs, other than H. Shorey & Co. 30 and the Ames Holden Company, Limited, and defendants were to be plaintiffs, and the said Georgina Jane Hornsfield Riley was to be defendant, to try the validity of such judgment of the said Georgina Jane Hornsfield Riley, to which interpleader order the defendants consented.

7. Shortly after the making of said interpleader order the defendants, with the intention of aiding the said Georgina Jane Hornsfield Riley and E. H. Riley in their said fraudulent scheme as against the plaintiffs, and in order to obtain the fruits of such judgment of the said Georgina Jane Hornsfield Riley entered into an agreement with the said Georgina Jane Hornsfield Riley and E. H. Riley whereby they, the defendants, were to abandon their connection with said interpleader proceedings and withdraw their said writ of execution against the said E. H. Riley, and the said Georgina Jane Hornsfield Riley was to assign to the defendants the said judgment so recovered by 40 her, and in consequence of such agreement the defendants did withdraw the said writ of execution

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from said Sheriff and from said interpleader proceedings, and the said Georgina Jane Hornsfield Riley by deed absolutely assigned to the said defendants the said judgment so recovered by her against the said E. H. Riley, and the defendants now hold such judgment as the beneficial plaintiffs therein, and the defendants also hold and control the said execution issued on said judgment so assigned to them.

8. The plaintiffs charge as the fact is that the said judgment so recovered by the said Georgina Jane Hornsfield Riley against the said E. H. Riley, and assigned to the defendants, was, and is, fraudulent and void and without value as against the plaintiffs and that the same was recovered collusively as aforesaid, and that the said E. H. Riley was not at the time of the recovery  
10 of said judgment indebted to the said Georgina Jane Hornsfield Riley, his mother, in any sum whatever.

The plaintiffs ask:—

1. That the said judgment recovered by the said Georgina Jane Hornsfield Riley against the said E. H. Riley and assigned to the defendants, may be declared fraudulent and void, and may be set aside and vacated, and that the executions issued thereunder may in like manner be set aside, and that the plaintiffs may be paid upon their said executions the proceeds of said goods so sold, and of those remaining to be sold.

20

2. That the defendants may be ordered to pay the plaintiffs' costs of suit.

3. The plaintiffs further ask for such further and other relief as the circumstances of the case may require, and as to the Court may seem meet.

Delivered this 27th day of December, 1888, by Messieurs Lougheed & McCarthy, of the Town of Calgary, in the District of Alberta, Advocates for the plaintiffs.

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## STATEMENT OF DEFENCE.

In answer to the plaintiffs' statement of claim herein, the defendants say that:—

1. E. H. Riley was not indebted, nor was he financially embarrassed and unable to pay his debts in full, and in fact insolvent as alleged.
2. No fraudulent scheme was conceived by and between Georgina Jane Hornsfield Riley and E. H. Riley for the purpose of defrauding E. H. Riley's creditors as alleged; nor was the action commenced and the judgment recovered against him for the purpose of carrying out such fraudulent scheme, as in the second paragraph of the statement of claim set forth.
- 10 3. At the time of the commencement of the action by Georgina Jane Hornsfield Riley against E. H. Riley he was indebted to her in the amount sued for, and there was no fraud or collusion between them in the recovery of the said judgment or in any of the proceedings thereon.
4. They deny all the allegations contained in the fifth and sixth paragraphs of the statement of claim, and deny that such interpleader order was made or that they consented thereto.
5. They deny all allegations of fraud or fraudulent dealing made against them, and as to the matters more particularly alleged in the seventh paragraph of the statement of claim, they absolutely deny that they entered into an agreement with the said Georgina Jane Hornsfield Riley and E. H. Riley with any intention of aiding them in their fraudulent scheme.
6. They did not agree to abandon said interpleader proceedings and to withdraw their writs of 20 execution, nor did they withdraw them as alleged.
7. They deny that the said judgment recovered by the said Georgina Jane Hornsfield Riley against the said E. H. Riley was and is fraudulent and void as against the plaintiffs, and that the same was recovered collusively, and that the said E. H. Riley was not indebted to the said Georgina Jane Hornsfield Riley as alleged.
8. They accepted the assignment of the said judgment recovered by Georgina Jane Hornsfield Riley against E. H. Riley, and became and are assignees and purchasers thereof in good faith and gave good, valuable and adequate consideration therefor, and they had not at the date of the said assignment, nor did they ever have, nor have they since then, acquired notice or knowledge of any actual or constructive fraud, collusion or want of consideration whatsoever in connection therewith 30 or in connection with the claim on which said judgment was founded.



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9. Under an agreement made between the said Georgina Jane Hornsfield Riley and the defendants, the said assignment of judgment was taken as collateral security for the re-payment of certain advances made by them to her, and on re-payment of said advances, the said Georgina Jane Hornsfield Riley is entitled to a re-assignment of the said judgment.

10. Said assignment was taken on or about the eleventh day of May, A. D. 1888, subsequently to the making of the interpleader order in the statement of claim mentioned.

11. The plaintiffs having then all the knowledge relating to the matters in question which they are now possessed, were parties to an agreement entered into between the creditors of E. H. Riley, other than the defendants and Georgina Jane Hornsfield Riley, in September, A. D. 1888, 10 whereby they agreed to settle their alleged claims as against the judgment in question herein, and to withdraw all proceedings that had been taken to set aside the same on the terms set forth in said agreement, and the defendants say that the plaintiffs are now precluded and estopped from impeaching the same upon any grounds whatsoever.

12. The plaintiffs, H. Shorey & Co., and the Ames Holden Company, Limited, were not parties to the interpleader proceedings mentioned in the statement of claim, and were and are not entitled to the benefit of the order made by the Supreme Court in banc on the 7th day of December, A. D. 1888, in the said interpleader proceedings, and the monies in the hands of the Sheriff of the said district ought to have been paid over to the defendants under the terms of the said order, but have not been so paid over, though demanded by the defendants.

20 13. The plaintiffs have by delay on their part in taking proceedings to impeach the said judgment, and more especially by their not taking such proceedings until long after the said assignment of judgment to the defendants, of which they had notice, acquiesced therein, and are now debarred from attacking the same.

14. The defendants will object that on the facts of the pleadings the said Georgina Jane Hornsfield Riley should have been a party to this action, and that they are not necessary or proper parties, and in no event ought they to be ordered to pay costs.

15. The defendants further say that they are not execution creditors of E. H. Riley, whose executions rank prior in date and in their receipt by the Sheriff to those of the plaintiffs and are subsequent to those of Georgina Jane Hornsfield Riley.

30 16. The defendants do not admit any of the allegations in the plaintiffs' statement of claim that are not herein specifically denied except that they admit the recovery of the judgment by Georgina Jane Hornsfield Riley against E. H. Riley, the issuing of the execution thereon and the assignment of the said judgment to them.

17. The defendants say that the writs of execution issued on the judgment by Georgina Jane Hornsfield Riley against E. H. Riley as aforesaid, were placed in the hands of the proper Sheriff in that behalf, that the said writs were thereupon duly executed by the said Sheriff and payment

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of the moneys realized by him thereunder was demanded by the defendants and ought to have been made long prior to the commencement of this action, and the defendants say that by reason of the premises the plaintiffs became and are estopped and debarred from impeaching or in any way attacking the said judgment or the writs of execution issued thereon.

Delivered this 20th day of March, 1889, by Messrs. Smith & West, of the town of Calgary, in the District of Alberta, Advocates for defendants.

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## AMENDED REPLY TO DEFENDANTS' AMENDED DEFENCE:

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1. As to the 17th paragraph of the statement of defence, before the said writs had been duly executed, the plaintiffs, claiming under the executions against the said E. H. Riley, by writing notified the said Sheriff not to pay over the proceeds of the sale of the goods seized under the executions issued in the suit of Georgina Jane Hornsfield Riley against the said E. H. Riley, to the said Georgina Jane Hornsfield Riley, as they intended to contest the validity of the judgment and executions in the said suit of Georgina Jane Hornsfield Riley against the said E. H. Riley, and have not withdrawn said notice.

10 2. The plaintiffs will object that the said 17th paragraph sets up no facts which constitute in law any defence to the plaintiffs' claim inasmuch as no priority exists in law nor is alleged to exist in fact between the Sheriff and the plaintiffs, and there being no priority there can be no estoppel.

3. The plaintiffs will object that the facts, in said 17th paragraph set forth, do not show that the money realized was at home when received by the Sheriff or while held by him, nor that the same was by the receipt by the said Sheriff released from the claim or the rights of the plaintiffs, and that until the said money was at home the same was subject to the plaintiffs' claim in this action.

Delivered this 17th day of August, 1889, by Messieurs Lougheed, McCarthy & Beck, of the town of Calgary, in the Northwest Territories of Canada, Advocates for the plaintiffs.

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## JUDGE'S NOTES OF EVIDENCE.

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CALGARY, Alberta, December 20th, '89.

BETWEEN

SHOREY &amp; COMPANY

and

STOBART &amp; COMPANY.

Messrs. Longheed &amp; McCarthy for the plaintiffs.

and

10 Messrs. West &amp; Davis for the defendants.

To set aside Judgment and assignment of same.

Questions of Law to be argued after evidence taken.

THOMAS RILEY, being on oath says,

I came to Calgary during the summer of 1887; don't remember the month; opened up business for E. H. Riley & Co. in September or October of same year. The firm of E. H. Riley & Co. is composed of my son alone, E. H. Riley. I was here about five or six weeks before I opened up business for E. H. Riley & Co. I left Montreal on 4th of August 1887. I did not come direct to Calgary. I did not go back to Montreal since. It was arranged before I left Montreal that I was to visit Manitoba, the N. W. T. and British Columbia, with a view to do the best for the interest of my son; my object was purely to start him in business. My son was then manager for a wholesale crockery business in Montreal, Z. Gravel & Co. My son was 22 years old about. Had been engaged in wholesale business myself in my own name. Don't recollect how long before my departure from Montreal. I cannot say whether it was 1,2,3,4, or 5 years before, but I would be safe in saying that it was more than 1 year and within 5 years. I was doing commission business in the interval. I failed in the wholesale business I was engaged in at first and lost everything. I know that my son had some savings of his own but don't know the amount. I know that he put some money of his own into the business. So far as I know he put nothing into the business, except the money I had arranged with my wife to let him have. My wife and myself knew our son's position. He lived at home. I did not do all the purchasing of the goods up to March



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1888. My son purchased goods in Montreal before he left. I did a large amount of purchasing myself. I purchased all the goods from the Winnipeg merchants. I cannot know the liability of my son on 19th of March 1888, but I can show his liability at the end of every month. I think I have all the books of E. H. Riley & Co. I made payments for goods purchased. I am aware that my wife recovered judgment against my son on my suggestion. I received myself a portion of the money, and my son received the other portion. The books will show the different amounts received. I kept these books from the commencement of the business. Part of the money was advanced before the business commenced, for instance, what I got when I left Montreal to look for a proper location for my son's business. I cannot say exactly the amount now.

10 I am positive that I had more than \$300.00 and perhaps about \$600.00. I think it was the first advance made by Mrs. Riley. The remainder was advanced after I opened the business here to the best of my recollection. The money advanced to my son by Mrs. Riley, was advanced in a motherly kind of a way; she was not to get any interest. It was for the purpose of helping my son. No arrangement was made about the repayment of that money. My wife had decided marked affection for her son. He is the eldest living son. My wife did not take any acknowledgment of that money. No promissory note of any kind. The money was given at different times as required. I rather think the amount of money given was in coin. The amount given to me was in bills. Mrs. Riley did not keep a bank account. She usually kept her money in the house. I don't know the amount of money Mrs. Riley had when she left Montreal. I don't know what

20 amount of money she had left. I kept a bank account during the time I was in business. I did not keep a cheque account since Mrs. Riley received money from England very frequently. I gave her myself a good deal of money to pay for house-keeping expenses. She had always the handling of all the money I had before I entered into business. She may have saved money from that source. I had equal confidence in her, when I was in business to her handling my money. I did collect money for my wife in England. It passed through my hands. Mrs. Riley's legacy was  $\frac{1}{2}$  of 12,000 pounds Sterling and about 1,000 pounds more in small bequests. I can't tell how long previous to 1887 this occurred, I collected that money. It extended over two or three years before the payments were all made, I cannot tell when testator died. I did go to England several times. I cannot tell whether it was before 1880 or not. I am safe in saying it was

30 after 1870. Some of that money went into my business. Mrs. Riley depended on me to transact all her business and I did it. I am familiar with all her financial affairs. This money given to me when I left Montreal was partly spent in travelling and partly put in the business. I don't know of my wife receiving money from England after I left Montreal. The first entry in the journal is on 31st October, 1887. A statement of our affairs on the 17th October 1887, I hereby produce. That was the position when E. H. Riley commenced business. Those cash items were received from my son. No other liabilities at that date. The capital account is \$1,726.46. On 31st December 1887 Cash \$59.50. It only shows that it is cash received. During Dec. 1887 for goods received from E. H. Riley \$162.65. Mrs. Riley's name does not appear in the books at all. No amounts received from Mrs. Riley appear in the books at all.

40 Nothing to show that Mrs. Riley's money was a liability to the business. These books show all other liabilities as far as I am aware. During January the firm paid out several bills to wit; \$122.30, \$78.85, \$182.80, \$14.90, \$27.00, Paid out December \$1,732.59. Sales for December are \$281.89 and \$448.75. Can't tell the amount on discount paper. The proceeds of any

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accommodation paper don't appear in the book. I wanted to protect Mrs. Riley's interest by taking judgment against E. H. Riley. The proceeds of 500 pounds sterling and a small amount in Canadian currency were advanced to my son by Mrs. Riley. The sum of 500 pounds was understood to be the amount she would advance. The fact that Mrs. Riley had assisted E. H. Riley by a loan was well known by every creditor of E. H. Riley. I did not interview all these creditors. I saw Shorey & Co. I arranged with them then for a credit for E. H. Riley & Co. They were aware that Mrs. Riley was assisting my son. They understood that my son was to get a loan from my wife for five years without interest. The arrangement was that if she allowed to let him have it for five years, she would not charge him interest. I was informed 10 of that by Shorey & Co., and I told them that Mrs. Riley was to assist E. H. Riley. I don't remember to have discussed that subject with other creditors. The books do not show any other items, but those mentioned, of sums advanced by Mrs. Riley. Am a book-keeper for over 24 years. Have entered the money received during the time the books were kept. I do not know the money received in February, I have no account of it. E. H. Riley came sometime in February and assumed the financial arrangement of the business. After January 1888 I have no entries showing any money received after that date, and don't recollect to have received any. This journal closes with that date. After the 31st of January 1888 the creditors of E. H. Riley & Co. thought their credit so impaired that they refused to advance any more goods. The 500 pounds and other monies, from England, were in my possession, and I had the management of 20 them. I invested them; part I used in my own business, do not recollect the amount. I put it in my own business. I can't recollect any particular investment I made, except short loans on one or two investments in real estate. The larger portion I got on my own account from Mrs. Riley was put in my own business. The portion that was put in my business was lost, except the dividend that my wife received. My wife ranked as a creditor of my estate. I don't recollect of any dividend being paid her. Everything was in the hands of an assignee, and he distributed the estate. I went down to Winnipeg and saw Stobart, Sons & Co. It was in 1888, after the Sheriff took possession of the business. They were creditors at that time, I saw some of the creditors there. Stobart and I made a proposition to bring about the continuance of the business. Acting under power of attorney from Mrs. Riley, I would purchase the estate of E. H. Riley & Co. at the 30 Sheriff's sale, and that G. J. Riley then would do business instead of E. H. Riley, asking Stobart's assistance to carry out that proposition. After some discussion we came to terms, resulting in the purchase of the stock by Stobart, Sons & Co. Mrs. Riley bought it from them and went on under the style of G. J. Riley & Co. Gave Stobart, Sons & Co. a chattel mortgage on the stock. Mrs. Riley assigned the judgment to Stobart, Sons & Co. as security (collateral) on the chattel mortgage. I can't remember what conversation I had with Mr. Stobart concerning the manner Mrs. Riley got the judgment. Mr. Stobart must have asked me about it and the facts of the judgment, and I must have told him. The proposition was carried out. Messrs. Stobart, Sons & Co. bought the stock from the Sheriff and took a chattel mortgage and the assignment of Mrs. Riley's judgment, and I went on with the business in Mrs. Riley's name. 40 My son and I carried on the business. The business was closed up by Stobart, Sons & Co. by proceeding under their Chattel Mortgage. The last time I was in England was about 1885 or 1886. Can't remember positively. Brought money with me on that trip. Don't remember the names of the trustees under the will to Mrs. Riley. There was only an understanding among the

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family that the money was to be advanced to E. H. Riley, and by the same understanding he was to repay it to his mother.

APPLICATION made to put the examination of Thomas Riley, the present witness, in an interpleader suit between O'Loughlin Bros. & Co, et. al vs G. J. Riley.

APPLICATION NOT ALLOWED.

When my wife gave me the money I used it the same as if it were my own money. Am not certain I ever had 500 pounds in my possession at one time; I may have had. (THE COURT finds that the witness is unwilling to answer fully some questions, and very willing to answer others. If the attorney thinks it is sufficient hostility on the part of the witness to cross-examine him, he may do so.) The statement made that I had 500 pounds, in my previous examination, meant that at different times various sums received by me on account of Mrs. Riley amounted to more than 500 pounds. I retained the money I required with my wife's consent. I generally handed to my wife the amount of money she required, out of the moneys collected, and I used the rest. I have no special recollection of moneys given to my wife for anything else but for house-keeping, except the amount given to E. H. Riley. I remember to have handed to E. H. Riley, early in 1887, for Mrs. Riley, a sum of 123 pounds. That sum was part of the family understanding that my wife was to assist my son. The money I got when leaving Montreal on 4th August, 1887, was the first money handed to me with respect to that business. That is the meaning of my former answer. The 123 pounds might have been part of my wife's legacy from 20 England. I believe it was during the time my son was at Gravel's in Montreal. No stock had been purchased at that time. It was contemplated then to start business. Don't know what my son did with the money. We are 12 of a family. Have not the invoices of the goods. Discussed the matter, of giving my son the 500 pounds to start him in business, with my wife possibly a year previous to starting business.

CROSS-EXAMINED by. MR. DAVIS.

As far as I understood it, there was not the slightest doubt that it was a loan that Mrs. Riley made to my son. There is no arrangement as to the time or terms of repayment. My family is composed of 10 children. This sum of money was nearly all my wife had to spare at that time. This loan was given in about 3 months from the 4th of August, 1887, with a view to 30 open the business. In fact it was to give my son a start in life. I gave the way before how the amount was arrived at for which my wife got judgment. Have two sons employed with plaintiffs and I was told by their agent that my evidence may injure their prospect. The money got from England under the will was my wife's money, at the time it was got and always after. I had no right to it except what she allowed me to have. She never gave me the money absolutely as my own; she allowed me to use it. I considered that money given to me for my business was a loan to me. Any money I retained was with her consent, and was to be repaid to her. It was on my son's instructions that I travelled to locate a business spot. He was to bear those travelling expenses. EXHIBITS "A" and "B" filed. Capital account is the surplus of the assets over the liabilities. By looking over the columns of figures on one page of a journal, would not furnish

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any reliable statement of the business. My other reason to say that the creditors knew about that loan or assistance is this, they might have seen it also in the Mercantile Agency Book. By might of I mean "if they had referred to it." The journal and ledger show only the entries of the business itself under my control. It was G. J. Riley's business after the arrangement I made with Stobart, Sons & Co.

RE-EXAMINED BY MR. LOUGHEED.

As long as there was any book-keeping done I did it. The entries may be in the blotter, but I don't know where it is. I cannot state any reason why the books were not kept up after the 31st January, 1888. Part of the \$600.00 when I came up here was given to me by my son, 10 Don't remember the amount. I used the money in my own business and considered myself bound to return it to Mrs. Riley. Don't remember of any particular arrangement by which I was to return it or pay interest. Used Mrs. Riley's money for one or two years at a time. The loan of money was made to my son from or after 4th August, about 3 or 4 months.

E. H. RILEY being on oath says,

I am the defendant in the suit mentioned of G. J. Riley vs. E. H. Riley. I formerly lived in Montreal. I left there in the winter of 1887 and '88. Am not a married man. Resided with my father and mother. My father was about at times, travelling some years before I left home. I always resided at home until I left Montreal. Am now the eldest son of my family. My elder brother died in the year 1887. Was at home all the time my father was absent. Had evidence 20 of special affection from my mother. Was about 22 years old when I left Montreal. Most likely family matters were talked over between me and my moth. Had very poor idea of my mother's financial affairs. Was aware that she had received money from England, by speaking to her about it. Don't know who was doing her financial affairs, my father I think. Never did any financial business for her, except getting money from her. Don't know who was doing her banking business in my father's absence. Don't know how she used to get her money from England. Can't remember whether I got money from her coming from England. Got letters from England for her. Don't know whether they contained money or not. Have pretty fair memory. Commenced to get money from my mother sometime in the summer of 1887. Can't remember what was the amount of the first sum I got from my mother. Can't remember when I commenced to earn 30 money for myself. J. G. Wurtell was my first employer. Can't remember the year, was only a boy at that time; continued in his employ as long as he was in business, between one month and six years. Don't remember the salary I had; don't remember how old I was when I left Wurtell's employ; don't remember whether I went to school after or entered another employment, don't remember to whom I was engaged after Z. Gravel was my employer, when I left Montreal; I think I was in his employ about three years. Had no stated salary with him at any time. My salary depended upon the amount of business done and the amount of assistance I would give him, whatever the salary my employer chose to give me, he was to give me enough for my living. Have no idea how much I got the last year I was there. Can't remember how much I got the 2nd year. It would be nearer \$500.00 than \$10.00 I got. Got more than \$300.00 but can't re-



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member how much. Got more on the 3rd year. The first year I got over \$300.00. Had other brothers employed in wholesale houses at the time. We used to pay our board at home. If we did not require the money for other purposes, we used to hand the money to our mother. Think we did not give her enough to pay for our board. My father and mother used to get the money. Don't know what they did with it. Was in commission business in Montreal for a short time before I was in the employ of Gravel, and made money at it. Handed it to my father and mother when I did not require it. Might have paid for store accounts but don't remember. Made up my mind to leave Montreal about 6 months before I came here. It was after New Year 1888 I came here. It was sometime in the year of 1887, about that time I wanted to leave my situation. I  
 10 remained only a few months there, spoke of it to Gravel and most likely to them at home. Can't remember to have had conversation with them separately. Got some money from my mother at the time I arranged to come to Manitoba, or the N. W. T., or British Columbia, about six months before I left Montreal, I had a desire to visit Manitoba, the N.W.T., and British Columbia, with a view to open business for myself. I had not enough capital of my own at that time to commence that business, and during one of the conversations we had at home about this affair my mother told me she had a little money she would advance to me to help to carry out that purpose, and she hoped I would be successful with it and be able to repay her. The only difference is I could not leave my situation and my father left with my instructions. It was arranged that I was to get about \$2000.00 but I think it exceeds that but I don't know the amount. Am sure I mentioned  
 20 that I would require about \$2000.00. My mother did not tell me where she had that money, had no idea of it myself, don't know if she kept a bank account; don't remember having heard of any of the members of the family depositing money for her. Don't know that she had the money till she told me. Don't think she got enough of our savings to give me that amount, had some money about this time myself; was not surprised to get the money, but was pleased with it. Can't remember the exact amount now I got from my mother, did not get that money in one sum, can't remember exactly what was the first amount, I think about \$400.00, got that in cash; I think it was in bills, she gave me this in the house; likely in the dining room, she took \$400.00 and gave it to me; can't remember whether she went into another room to get it or not. I had spoken to her the day before about it. I gave her no written acknowledgment of it. Was in Gravel's em-  
 30 ploy at that time. Was giving some assistance then to Gravel at that time, as he had some accommodation notes of mine maturing about that time. It was quite likely I helped him to take those notes up. Can't remember I did on this occasion or not, but I am inclined to think I did. Got several other sums from my mother between that time and the time I came away, but can't remember any of them in particular. Got some from my father on my mother's account and some from my mother. They were about \$300.00 each. Can't remember I made any entry of these sums in any book. Can't remember any particular time I got money from my father. Don't remember anyone present when any of these sums were given to me. Can't remember how long after I got the first money from my mother, I got the second or third sums. They were all got within  
 40 within six months. Got some money about the time my father came away. I may have put it down at the time but I don't remember now. No idea the amount my father gave me on my mother's account. Got the money from him before he left. Can't remember any particular place, where my father gave me that money. Most likely at home; I paid that money for the business

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here; I gave my father some money to come away with. Got my brother to buy some goods at Montreal for me; I gave him the money. After I came to Calgary I paid out some cheques; can't remember how much I had with me. Here are some cheques I paid when I got here. Paid exhibit "F" after I came here. The money was in the business or in the bank. I did business in the Bank of Montreal about the time I got here. Won't swear exhibit "F" was paid out of the money I brought with me. Can't swear those cheques were paid with the money I brought with me, can't swear it was the same money; never touched the books. Signed the cheques and went to the bank after I came here. Most likely I told my father to enter the amount of money I brought with me, but don't remember it. Never asked my father to charge the amount of money I got from my mother. Can only produce those cheques that I paid out here, and there was no money here when I came. Did the banking business after I came here. I discounted the \$500.00 note of Gravel's. Can't tell if I discounted any other notes. The Bank of Montreal got a letter from Gravel but I did not bring it with me. When I was served with the writ by my mother I was keeping business then. The bank has got my bank-book I think. Don't think I took stock when I came. As soon as I came here I found that there was no business done. Don't know why my mother sued me, I suppose she was afraid of losing her money. All the writs were not served on me. Know my mother got judgment against me, but don't remember the particulars. Cannot give any other explanation of my mother suing me at that time unless she was afraid of losing her money. Almost all the stock was in the store, as there were very few sales at the time I was here. My father and I were here alone. Can't remember of any money being sent to my mother, the family did not live out of that store.

Cross-examined by MR. DAVIS.

The Commission business in Montreal lasted only a short time. It was most likely February I came up from Montreal. Shortly after I came up here I paid out first cheque, there was a shortage of \$100.00 in the Imperial Bank. The rest of the cheques are in the Bank, amongst which one from Gravel for \$100.00. The business was dropping off all the time, and I don't think that in February there was enough taken to pay for one's board. The entries on page 5 of the ledger do not mean sales of goods, but include also balance in bank and other things. Drafts ex. "F", paid on March 6th for silverware bought.

30 EXHIBIT "G" was to pay Turner & Co., Winnipeg, Man.

" "H" was on account of Davidson & Co., Montreal, P. Q.

" "I" was to pay overdraft in the Imperial Bank.

" "J" was for a month's rent in the store.

" "K" was to pay draft of Ames Holden Co., Winnipeg, Man.

" "L" was to pay a note of one Whitbeck.

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EXHIBIT "M" was to pay for goods got from Reid, Birley & Co.

" "N" was to pay a draft, not goods.

" "O" was to pay for freight on goods.

" "P" was to pay Shorey & Co. for goods in store.

" "Q" was to pay a draft of Gravel's I think, I am not sure of the last one. Came here with the intention of paying every dollar which was due.

RE-EXAMINED BY MR. LOUGHEED.

Never paid Gravel's note. Was out of business long before it came due. The amount of Gravel's note might have been paid out by these cheques. I don't think the proceeds of sale were hardly 10 sufficient to pay the rent. No goods were sold under value. Don't know what the sales were in February, but they did not amount to anything.

JOHN P. J. JEPHSON, Advocate, being on oath says :—

Was acting for Stobart, Sons & Co. in an interpleader matter. Exhibit "R," the letter filed is in my hand writing. I accepted service of the interpleader summons. (Objection by Mr. Davis to the filing of summons.) I continued to act for Stobart, Sons & Co. in the interpleader matter, until I took out an order to strike out their names on the 12th May. Order produced under objection. Was acting for them until interpleader was filed. Issue filed under objection. I took out the summons on behalf of Stobart, Sons & Co. to restrain the Sheriff from paying the money in his hands to the other creditors. Application was not successful, and it was appealed 20 to the Court in banc. (Order of Court to be put in by opposite party or else a copy of it.) The above evidence is taken under objection. Recognize exhibit "C," it was sent to me by Stobart, Sons & Co's. solicitors at Winnipeg.

EXHIBIT "S" interpleader summons.

" "T," Order to strike Stobart, Sons & Co out of issue.

" "U," Interpleader issue.

" "V," Interpleader summons.

" "W," Rule of the Supreme Court at Regina.

NO CROSS-EXAMINATION.

WILLIAM HALL HOGG, being on oath states:—

30 Am accountant of the Bank of Montreal here. There was an account opened by E. H. Riley &

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E. H. Riley &

Co. on February 14th 1888. The amount of discounts shown is \$891.85 during the month of February. Out side of the discount there was a deposit of \$424.75. The account ends on 29th March 1888. The first deposit was \$40.00 on 14th February 1888.

**CROSS-EXAMINED.**

Can't tell whether the discounts were notes or drafts. I know but one, the Gravel note.

**EXHIBIT "X"** Copy of account of E. H. Riley & Co. certified by W. H. Hogg.

- " "Y-1" Affidavit of service in Riley vs Riley.
- " "Y-2" Affidavit of Thos. Riley in Riley vs Riley.
- " "Y-3" Notice of motion in Riley vs Riley.
- 10 " "Y-4" Order for immediate judgment in Riley vs Riley.
- " "Y-5" Judgment Roll in Riley vs Riley.
- " "Y-6" Statement of claim in Riley vs Riley.
- " "Y-7" Writ of Summons in Riley vs Riley.
- " "Z" Judgment Roll O'Loughlin Bros & Co. vs Riley.
- " "AA" " " McKenzie & Mills vs Riley.
- " "BB" " " Lyon, McKenzie & Powis vs Riley.
- " "CC" " " Campbell, Spera & Co. vs Riley.
- " "DI" " „ Stobart, Sons & Co. vs Riley.
- " "EE" " " Shorey & Co. vs Riley.
- 20 " "FF" " "The Ames Holden Co. (Limited) vs Riley.

P. W. KING, Sheriff, being on oath states:—

I hereby produce the executions in the above eight suits against Riley. The executions are endorsed with the dates and hours when I received them. These executions have been in my hands in full force from the time I received them until now. Exhibit "R" was received by me. Received also letter from Loughheed & McCarthy and it was upon those letters that I based my application which was granted. (Objection taken as to above evidence).

**EXHIBIT "GG"** Execution Riley vs Riley Received 12.15 p.m. March 19th, 1888.



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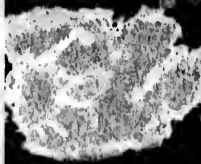


EXHIBIT "HH" execution O'Loughlin vs Riley received 3.55 p.m. April 4th 1888.

"	"II"	"	McKenzie vs	"	"	ditto.	ditto.
"	"JJ"	"	Lyon vs	"	"	"	"
"	"KK"	"	Campbell vs	"	"	"	"
"	"LL"	"	Stobart vs	"	"	1.00 p.m. April 5th 1888.	
"	"MM"	"	Ames, Holden vs	"	"	10.00 a.m. April 14th, 1888.	
"	"NN"	"	Shorey & Co. vs	"	"	10.00 a.m. June 4th, 1888.	

CROSS-EXAMINED by MR. DAVIS.

Went on and sold the goods of E. H. Riley & Co. under the first execution and received the 10 proceeds, making in all about \$1700.00 or \$1800.00. That money was demanded of me by Stobart, Sons & Co. as assignees of G. J. Riley. Did not pay them over, because I was notified not to do it. (The interpleader order is hereby put in.) The notice served on me was a copy of the interpleader order of O'Loughlin vs Riley. My impression is that the money was subsequently demanded of me after the order of the Court in banc. My reason for not giving the money was the same as before.

RE-EXAMINED by Mr. McCarthy.

Sold the goods under the interpleader order but seized under the Riley execution. The sale was made under all the above executions.

(Interpleader order filed under objection.)

20 Put in the order of 2nd January 1889, striking out all the names of the plaintiffs except Shorey & Co. and on 8th of March 1889 an order re-instating the same. Also an order of 17th January 1889 for the holding money in this case till further order. Original subpoena filed under objection after plaintiffs had closed their case.

#### THIS CLOSES THE PLAINTIFFS' CASE.

Exhibits filed in the Sheriff's examination :—"OO," "PP," "QQ," "RR," "SS."

FREDERICK WILLIAM STOBART, a witness on behalf of the defence, is taken at this stage by consent, being sworn, states :—

I am a member of Stobart, Sons & Co., and defendants in this action. My firm sold E. H. Riley & Co. goods in the fall of '87. We have not been paid for the goods sold E. H. Riley & Co., 30 in any way. Our transactions with E. H. Riley & Co. ceased in the spring of '88. Our goods

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were sold in the fall on time. Our house first learned in the spring of '88 that Mrs. Riley had recovered a judgment against E. H. Riley & Co. We learned this through the mercantile agency. This is the judgment in question in this action. We got the assignment of Mrs. Riley's judgment in this manner:—"Mr. Thos. Riley came to me in Winnipeg, about April, '88, and requested my assistance for Mrs. Riley in buying in the stock of E. H. Riley & Co. at the Sheriff's sale, agreeing to give me as security for such advance, and the payment of my account against E. H. Riley & Co., a chattel mortgage on the stock bought, and an assignment of Mrs. Riley's judgment." I consented to this proposition and we carried it out.

QUESTIONED by MR. WEST.

- 10 Are you aware of the circumstances under which Mrs. Riley obtained the judgment against E. H. Riley & Co., and if so state them? Objected to by Mr. Longheed. Answer by witness:— I believe I was fully aware of the circumstances, when I first sold the goods I knew of the advance made. When I first sold E. H. Riley & Co. goods I did so under the understanding that there was a liability. I was informed by Thos. Riley when he came to Winnipeg that Mrs. Riley's judgment was a valid one and for good consideration. I paid for the stock at the Sheriff's sale \$1650.00, which was the draft made on us. The advance made was to G. J. Riley. I took the assignment of judgment. I would not have made the advance if I had not got the judgment. I never entered into any agreement with E. H. Riley and G. J. Riley to defraud the creditors of E. H. Riley & Co.

20 CROSS-EXAMINED by Mr. Longheed.

Previous to Thos. Riley waiting on me in Winnipeg we had obtained a judgment against E. H. Riley & Co. Mr. Jephson was acting as our Solicitor in getting that judgment. I am not aware that about that time the plaintiffs obtained judgment. I was not aware at that time that they had taken legal proceedings. Between one and two weeks after I had begun proceedings, I understood that other creditors had also taken legal proceedings. Mr. Jephson continued to act for us until the time we took the assignment, I don't think after. Allen & Cameron were acting as our Solicitors in Winnipeg in connection with this matter. After obtaining the first judgment, we took interpleader proceedings to attack the judgment of Mrs. Riley. (Mr. Davis objected to the evidence in connection with the interpleader proceedings, as they had been set aside.)

- 30 The object of taking the step was to force E. H. Riley & Co. to compromise my claim, by forcing her to put up the money to buy in E. H. Riley & Co.'s stock. I had no idea we had a legal right in the matter. If we had gone on with the interpleader and we had succeeded, the result would have been to set aside the judgment of Mrs. Riley; the object was to force Mrs. Riley to buy the stock. I should never have come to Court with the case. I started this suit (the interpleader against Mrs. Riley, without considering I had any right to do so. I mean a right under law I think I had in equity; I considered I had a good moral right. The interpleader was against G. J. Riley. I had no conversation with the other creditors about the time of taking the interpleader proceedings, or about the time of the conversation with Mr. Riley. I had a knowledge of the actions of the other creditors, that they were taking interpleader proceedings to attack the judgment. Allen & Cameron were acting as our solicitors when the letter was sent, June, 1888

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Riley's judgment  
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Marked exhibit "C". (Mr. Davis objects to the letter being put in as evidence.) We handed to Allen & Cameron the general conduct of the case against Riley, no other Solicitor acted. I am not aware we joined in with the other creditors in the interpleader. After obtaining the assignment we dropped out of the interpleader. According to the letter the assignment was sometime in May. I did not conceal the assignment from any one of the creditors, and it might have been some months before they ascertained it. I do not recollect how it came to be known that I had this assignment. I was not aware in Sept. 1888 that the creditors were fighting in this matter, I was away in England. I never had any conversation previous to the date of getting the assignment, with Thos. Riley. This was the occasion when he said the judgment was for good  
 10 consideration. Previous to the time of selling E. H. Riley & Co. any goods I had a knowledge of the assistance his mother had given E. H. Riley, I did not have it from the Riley's, I had it through the mercantile agency, only that I had any information from. I have the report of the mercantile agency. (Shown to Mr. Loughheed and filed exhibit "D.") I received this before I sold him any goods; it was referred to me about Nov. 1st. I had made enquiries from Thos. Riley as to the judgment prior to taking the assignment. Thos. Riley confirmed the loan but stated the amount larger than is shown there. There was part of the report I did not question him about. His statement harmonized with the report contained in exhibit "D" except as to the amount. I asked him no questions as to the terms of the loan. I made no enquiries as to where Mrs. Riley got this money. I made no enquiries as to securities given by her son, or  
 20 as to whether it showed on their books, or on any statement as a liability of the business. I never saw any statement as to the assets and liabilities of the business. I have no recollection of asking for such. I had no object in doing so, the business was in the Sheriff's hands. I attached value to the assignment, viz: I would not have advanced the money viz: \$1,600.00, without the security of Mrs. Riley's judgment. Previous to carrying out this transaction I made no enquiries whatever beyond Thos. Riley. He did not state the particulars of how the money was advanced, or in what sums, beyond as to its being a loan. It is impossible for me to say if I placed confidence in the report being correct when I took the assignment. It was solely on Thos. Riley's report and upon what is contained in exhibit "D" that I carried out the arrangement. I don't know whether Thos. Riley had a meeting with any other creditors. There was no discussion with  
 30 me that our house was to pay off the other creditors, or that Thos. Riley was to effect a compromise. I know that I was looking after my own interests, and I was not concerned in finding out whether the liabilities exceeded the assets. I made no enquiries. I had a judgment at this time for about \$400.00 and I was satisfied that I could not have made my claim out of the estate, in full. I knew it was an insolvent estate and treated it as such. (Letter from Stobart, Sons & Co. shown to witness, and filed as exhibit "E.") The letter was in connection with a different suit, and was without prejudice. (Mr. Davis objected to the letter as evidence.) There was an agreement, without prejudice, with the plaintiffs in the O'Loughlin & Riley matter, that the proceeds now in Court were to be distributed among Stobart, Sons & Co. and the plaintiffs in the interpleader suit of O'Loughlin & Riley. The arrangement fell through. Exhibit "D" states  
 40 the reason. We restored the other parties to their original position, the rights were not impaired in consequence of any negotiations between them and ourselves. It might be possible that Jephson was acting as our Solicitor up to the 20th of Sept. 1888. I never saw G. J. Riley nor had I any correspondence with her. I never ascertained what authority Thos. Riley had to act

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for her, otherwise than what he told me. I never saw any authority, it might have been shown to my Solicitors in Winnipeg.

RE-EXAMINED by MR. DAVIS.

The true consideration mentioned in the assignment of judgment which was collateral security to the chattel mortgage was \$2,550.00 or thereabouts, of this \$1,650.00 was a cash advance, the balance was made up by the amount of our original claim against E. H. Riley & Co. and a claim of C. H. Mahon which was assigned to us and certain costs. Speaking roughly the assignment stands as security for about \$950.00 and costs. At the time I took the assignment of judgment, I was aware of Dun, Wiman & Co's report, exhibit "D", and the information given me by Thos. Riley and no other information. There was no further information given me by Thos. Riley than the assertion that the judgment was good and what I have stated above. My object in taking the assignment was as security for money advanced and goods sold. I had no other object whatever. The transaction was entirely bona fide on my part. I had no other object in entering into the interpleader suit, than that what I have stated, to force the compromise. I thought it would force G. J. Riley to put up the money to buy in the stock, or the stock would be sacrificed, and I thought that as she had loaned the son some money she might have more.

RE-EXAMINED by Mr. Longheed.

It is my opinion that the stock would be more valuable to her than any one else. I don't say that it was a family transaction.

20 RE-EXAMINED by Mr. Davis.

Goods are generally sacrificed at a forced sale.

Assignment and papers in connection with it put in on behalf of the defence.

THIS CLOSES THE CASE FOR THE DEFENCE.

Arguments fixed for 9th January 1890.

Calgary, Alta. 23rd Dec. 1889.

CHAS. B. ROULEAU,

J. S. C.



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EAU,  
J. S. C.

## EXHIBIT "A".

## STATEMENT OF AFFAIRS, E. H. RILEY &amp; CO., 17th OCT. 1887.

Opening day; 268, Stephen Ave., Calgary, N. W. T

## SUNDRIES.

DR. to Balance Account.  
(assets)

1.	Mdse in stock,		3,180.34	
4.	(Furniture and fixtures (Counters, store &c., as per inventory		228.00	
5.	CASH E. H. R. 300. 25. 100.		425.00	
10 11.	Imperial Bank		212.00	
10.	F. G. F. Lapenotiere (hotel)		10.00	
	ACCOUNTS REC'BLE			
10.	F. G. F. Lapenotiere		28.25	
12.	M. Harris		13.00	
12.	J. D. Geddes		15.00	4112.09
	BALANCE ACCOUNT			
	Dr. to Sundries (Liabilities)			
13.	H Shorey & Co., Sep. 3.	303.78		
		271.88	575.66	
20 14.	Z. Gravel, Sep. 3	71.18		
		7	249.53	
		19	54.20	
		21	18.55	393.46
15.	C. H. Mahon & Co., Oct 16		630.00	
16.	Turner McKeand & Co., 12th Oct.		272.93	
17.	Ames, Holden Co, Ld 11th "		250.10	
18.	Paulin & Co., 12th "		33.83	
19.	T. Davidson & Co., Sep. 29		229.65	

17th OCT. 1887.

J. W. T

20.	E. H. Riley & Co., capital acct.	1726.46	4112.09
	Note; Cash in hand of E. H. R. in Montreal } not included; statement not received }	T. R. Man'r.	

## EXHIBIT "B" NOT PRINTED.

Original transmitted to Registrar Court in banc, pursuant to order of Mr. Justice Rouleau, dated April 22nd, 1890.

## EXHIBIT "C"

Winnipeg 11th June 1888.

Re Riley

Dear Sir;

Messrs. Stobart, Sons & Co. have handed us your letters to them of the 26th & 30th  
10 May. We have been getting security for the various advances made by Stobart, Sons & Co. in  
this matter but there has been some delay unfortunately. As soon as this is completed your  
costs will be paid.

There was no particular object in striking out Stobart, Sons, & Co's name from the inter-  
pleader proceedings. They are the beneficial holders of the judgment, having an assignment to  
them of the same, and it might have easily happened that they could put to advantage the  
fact of their being on both sides of the record. We could not have explained this as clearly as we  
intended.

In the meantime as Mr. Stobart is absent, we wish you to wait until the security is com-  
pleted. When this is done we would advise S. S. & Co. to settle with you.

20

Yours truly,

ALLEN & CAMERON,

Justice Rouleau

June 1888.

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ERON,

J. P. J. Jephson Esq.,

Advocate,

Calgary, N. W. T.

(TELEGRAM)

Sep. 26. 1888.

From Winnipeg

To J. P. J. Jephson.

Notify Clerk of Court, Sheriff, Lougheed & McCarthy that Mrs. Riley's judgment absolute assigned to us May last. Take necessary proceedings to protect our interests.

Stobart, Sons & Co,

10

EXHIBIT "D"

Riley E. H. & Co. G. S. Calgary N. W. T.

Oct. 21 '87. Reporting from Montreal. E. H. Riley is the sole member of the firm. Is at present and has been for the past 2 years in employ of Z. Gravel, wholesale crockery, Montreal. Started the above business about a month or so ago. His father Thos. Riley having charge of it in the meantime, but the young man is going to leave Gravel's about the beginning of February and will then go to Calgary and look after the business himself. He is single, well spoken of by his present employer as being sober, active and hard working, and he is sorry to lose his services. We understand that he is commencing with a capital of some \$700 of his own and his mother is said to have loaned him a \$1000 or so for five years without interest or security. This of course is a liability but there is an agreement, we believe, by which she cannot withdraw any of it till the end of five years. Has been given a small line of credit by a few Montreal houses, but the success of the venture remains to be seen, and in the meantime it is deemed best to restrict credits to limited bills outside of above house.

*For information see p. 20*

ep. 26. 1888.

judgment absolute

Co,

member of the  
Gravel, wholesaler  
father Thos. Riley  
is about the best  
self. He is single  
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\$700 of his own  
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cannot withdraw  
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is deemed wise

EXHIBIT "E"

Winnipeg

Manitoba

6th February 1889.

Messrs. O'Loughlin Bros. & Co.,

Winnipeg.

O'Loughlin vs Riley

Dear Sirs;

10 We beg to advise you that in view of an order in Court at Calgary having issued stopping the payment out of Court of monies proposed to be distributed under an agreement between yourselves and others and us, dated 18th December last, we are unable to carry out the terms of said agreement and will, should you so desire, restore you as agreed to your original position in this matter.

Yours faithfully,

Stobart Sons & Co.

EXHIBIT "F"

\$137.95.

Montreal, November 1st 1888

Four months after date Pay to the order of Ontario Bank one hundred and thirty seven 95-100 Dollars.

20 Value received and charge to account of

To Messrs. E. H. Riley & Co.  
Calgary, N. W. T.

}

Simpson Hell Miller & Co.  
per pro Edward Bulmey.



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November 1st 188

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Marked as follows: "Accepted payable at Imperial Bank, Calgary,  
~~E. H. Riley & Co.~~" and "Paid"

EXHIBIT "G"

---

Calgary Alberta Feb. 14th 1888.

No 2.

To the

BANK OF MONTREAL, CALGARY,

Pay to draft Turner McKean & Co. or bearer sixty three 27-100 dollars.

\$63.27.

~~E. H. Riley & Co.~~

EXHIBIT "H"

---

10 No. 1.

Calgary, Alberta, 14th Feby. 1888.

To the

BANK OF MONTREAL, CALGARY,

Pay to Bank Montreal or bearer seventy six 55-100 dollars.

\$76.55.

~~E. H. Riley & Co.~~

88.

s.

by. 1888.

EXHIBIT "I"

---

Calgary, Alberta, 14th Feby. 1888.

No. 3.

To the

BANK OF MONTREAL, CALGARY,

Pay to Cash or bearer one hundred dollars

\$100.00

~~E. H. Riley & Co.~~

---

EXHIBIT "J"

---

No. 4.

Calgary, Alberta, Feb. 15th 1888.

10

To The

BANK OF MONTREAL, CALGARY.

Pay to D. W. Marsh or order forty five dollars.

\$45.00

~~E. H. Riley & Co.~~

Feb. 1888.

th 1888.

EXHIBIT "K"

---

No. 5.

Calgary, Alberta, 15 Feby. 1888.

To The

BANK OF MONTREAL, CALGARY,

Pay to the Ames Holden Co. Ld. or order one hundred and sixty one 96-100 dollars.

\$161. 96

E. H. Riley & Co.

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EXHIBIT "L"

---

No. 14.

Calgary, Alberta, 29th Feby. 1888.

10 To the

BANK OF MONTREAL, CALGARY,

Pay to note Whitbeck or bearer forty-five dollars.

\$45.00.

E. H. Riley & Co.

---

Feb. 1888.

.00 dollars.

by. 1888.

EXHIBIT "M"

---

Calgary Alberta Feb. 23, 1888.

No

To the

BANK OF MONTREAL, CALGARY,

Pay to B. P. Reid Birey & Co. or bearer two hundred and sixty-seven 05-100 dollars.

\$267.05

~~E. H. Riley & Co.~~

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EXHIBIT "N"

---

Calgary, Alberta, Feb. 22, 1888.

No. 12.

To the

BANK OF MONTREAL, CALGARY,

Pay to draft Robinson & Keys or bearer thirty six 76-100 dollars

\$36.76

~~E. H. Riley & Co.~~

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10



1888.

-100 dollars.

Feb. 22, 1888.

EXHIBIT "O"

---

No. 11.

Calgary, Alberta, Feb. 20, 1888.

To the

BANK OF MONTREAL, CALGARY.

Pay to cash (C. P. R. Freight) or bearer thirty dollars.

\$30.00

~~E. H. Riley & Co.~~

EXHIBIT "P"

---

No. 6.

Calgary, Alberta, 15th Feby., 1888.

10

To The

BANK OF MONTREAL, CALGARY,

Pay to H. Shorey & Co. or order one hundred and fifty dollars.

\$150.00

~~E. H. Riley & Co.~~

, 1888.

by., 1888.

EXHIBIT "Q"

---

No. 8.

Calgary, Alberta, Feb. 16, 1888.

To the

BANK OF MONTREAL, CALGARY,

Pay to Cash or bearer sixty-three dollars.

\$63.00.

~~E. H. Riley & Co.~~

EXHIBIT "R".

---

Calgary, 6 April, 1888.

P. W. King, Esq.,

10

Sheriff,

Calgary.

Dear Sir;

re Stobart, Sons & Co. vs E. H. Riley & Co.

I notify you that you are not to pay over the proceeds of the sale of the goods seized under writ of fieri facias issued in the suit of Riley vs Riley to the plaintiff Riley, as I intend, on behalf of my clients, to contest the validity of the judgment and execution in the suit of Riley vs Riley.

I also desire you to have the store closed and your own bailiff placed in possession.

Yours truly,

J. P. J. Jephson,

Advocate for Stobart, Sons & Co.

16, 1888.

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E. H. Riley & C.

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INDORSED :

S. C. N. W. T. N. A. J. D.

No. 328. Georgina Jane Riley vs Riley  
 No. 333. O'Loughlin Bros.' & Co. vs Riley  
 No. 335. Stobart, Sons & Co. vs Riley  
 No. 339. Campbell, Spera & Co vs Riley  
 No. 340. Lyon, MacKenzie & Powis vs Riley  
 No. 341. MacKenzie & Mills vs Riley

and

O'Loughlin Bros.' & Co., Stobart, Sons & Co., Campbell, Spera & Co.,  
 Lyon, MacKenzie & Powis and MacKenzie & Mills ; Claimants.

10

This is exhibit "B" referred to in the affidavit of Peter Willoughby  
 King, sworn before me this 9th day of April A, D. 1888.

H. S. Cayley,  
 Notary Public.

Calgary, Alberta, N. W. T.

April 6th 1888.

P. W. King, Esq.,

Sheriff,

Calgary.

20 Dear Sir :

O'Loughlin et al vs Riley  
 MacKenzie et al vs Riley  
 Lyon et al vs Riley  
 Campbell et al vs Riley

In these actions we notify you that we claim the proceeds of the sales of the goods seized under the executions herein, as we will, on behalf of our clients, contest the validity and bona fides of the judgment and execution in the suit of Riley vs Riley, being the first execution placed in your hands. We, therefore, desire you to have an interpleader summons taken out between our clients and the first execution creditor, so that we may have a contest over the proceeds of the sale.

We also desire you to have the store closed up and your own bailiff placed in possession.

Yours truly,

Lougheed & McCarthy.

J. D.

Spera & Co.  
Claimants

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Indorsed as follows :

S. C. N. W. T.

- No. 328. Georgina Jane Riley vs Riley.  
 No. 333. O'Loughlin Bros. & Co. vs Riley.  
 No. 335. Stobart, Sons & Co. vs Riley.  
 No. 339. Campbell, Spera & Co. vs Riley.  
 No. 340. Lyon, MacKenzie & Powis vs Riley.  
 No. 341. MacKenzie & Mills vs Riley.

and

10

O'Loughlin Bros. & Co., Stobart, Sons & Co., Campbell, Spera & Co.,  
 Lyon, MacKenzie & Powis, and MacKenzie & Mills,

Claimants.

This is exhibit "A" referred to in the affidavit of Peter Willoughby  
 King, sworn before me this 9th day of April, A. D. 1888.

H. S. CAYLEY.

Notary Public.

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
 NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

20

	Georgina Jane Riley	Plaintiff,
No. 328	and	
	E. H. Riley, doing business as E. H. Riley & Co.	Defendant.
	John Myles O'Loughlin and MacRoy O'Loughlin, trading as O'Loughlin Bros. & Co.	Plaintiffs.
No. 333	and	
	E. H. Riley, trading as E. H. Riley & Co.	Defendant.
	Stobart, Sons & Co.	Plaintiffs.
No. 335	and	
	E. H. Riley & Co.	Defendants.



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	Campbell, Spera & Co.		Plaintiffs
No. 339		and	
	E. H. Riley & Co.		Defendants.
	Lyon McKenzie & Powis,		Plaintiffs,
No. 340		and	
	E. H. Riley & Co.		Defendants.
	A. A. McKenzie and E. M. Mills trading as MacKenzie & Mills,		Plaintiffs,
No. 341		and	
10	E. H. Riley & Co.		Defendants.
		and	
	John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co., Stobart Sons & Co., Campbell Spera & Co., Lyon, MacKenzie & Powis, A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills.		
			Claimants.

I, Peter Willoughby King, of the town of Calgary in the North-West Territories Sheriff of the Northern Alberta Judicial District, make oath and say:—

1. Under and by virtue of writs of *fi fa*, which appear to me to have been regularly issued out of this honorable Court in these actions, directed to the Sheriff of the Northern Alberta Judicial District, commanding him that he should cause to be levied of the goods and chattels of the above named defendants \$2,541.31 in suit No. 328, \$116.42 in suit No. 333, \$389.44 in suit No. 335, \$105.41 in suit No. 339, \$127.76 in suit No. 340, and \$260.20 in suit No. 341, which the above named Plaintiffs have recovered in this Honorable Court against the said defendants, and endorsed to levy the whole of these sums, respectively, besides Sheriff's poundage, officer's fees and other incidental expenses as endorsed on said writs, I did on the thirty first day of March instant take possession of all the stock in the store occupied by the defendants on Stephen Avenue in the town of Calgary in the said Territories, consisting in part of boots and shoes, rubbers and moccasins, ready-made clothing, hats, mens underwear, crockery, glassware, tin and plated ware, pipes, cigars and sundries, stove and stove-pipes and a quantity of store furniture and fittings, and the defendant's interest in a certain lease of the store and cellar on Stephen Avenue, Calgary, and the said goods and chattels still remain in my possession as said Sheriff.

2. Upon the 6th day of April 1888 I was served with written notices, copies whereof are hereunto annexed marked "A" and "B", respectively.

3. This application for an interpleader order is made to this Honorable Court solely on my behalf as said Sheriff, at my own expense and for my indemnity only, and I do not in any manner

Plaintiffs

Defendants.

Plaintiffs,

Defendants.

Kenzie &  
Plaintiffs.

Defendants.

John trad-  
Campbell  
MacKenzie

Claimants.

West Territories

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and the defendant  
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kept solely on my  
part in any manner

collude with the said Claimants or either of them, or with the above named Plaintiffs or any of them.

Sworn before me at Calgary in the  
North-west Territories this 9th day of  
April A. D. 1888.

H. S. Cayley.

A Notary Public in and for the  
North-west Territories.

P. W. King.

10

EXHIBIT "S"

IN THE SUPREME COURT OF THE NORTH-WEST TERRITORIES  
NORTHERN ALBERTA JUDICIAL DISTRICT,

BETWEEN :

	Georgina Jane Riley,	Plaintiff,
No. 328	and	
	E. H. Riley doing business as E. H. Riley & Co.,	Defendant;
	John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co.,	Plaintiffs,
No. 333	and	
	E. H. Riley trading as E. H. Riley & Co.,	Defendant;
20	Stobart Sons & Co.,	Plaintiffs,
No. 335	and	
	E. H. Riley & Co.,	Defendants;
	Campbell Spera & Co.,	Plaintiffs,
No. 339	and	
	E. H. Riley & Co.,	Defendants;
	Lyon MacKenzie & Powis,	Plaintiffs,
No. 340	and	
	E. H. Riley & Co.,	Defendants;

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A. A. MacKenzie and E. M. Mills trading as  
 MacKenzie & Mills, Plaintiffs,  
 No. 341 and  
 E. H. Riley & Co., Defendants;  
 and

10 John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co.,  
 Stobart Sons & Co., Campbell Spera & Co.,  
 Lyon MacKenzie & Powis, A. A. MacKenzie  
 and E. M. Mills trading as MacKenzie & Mills, Claimants;

Let the Plaintiffs and the Claimants or their Advocates or Agents attend before me at my Chambers in the Court House in the town of Calgary, on Thursday the 12th day of April 1888 at 10 o'clock in the forenoon, to show cause why they should not appear and state the nature and particulars of their respective claims to the goods and chattels seized by the Sheriff of the said Northern Alberta Judicial District under the several writs of fieri facias issued in these causes, and maintain or relinquish the same and abide by such order as may be made therein, and why in the meantime all further proceedings should not be stayed.

Dated at Chambers this 9th day of April 1888.

Chas. B. Rouleau,

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J. S. C.

EXHIBIT "T"

—  
 IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
 NOTHERN ALBERTA JUDICIAL DISTRICT.  
 —

BETWEEN :

John Myles O'Loughlin and MacRoy O'Loughlin, trading as  
 O'Loughlin Bros. & Co., Stobart, Sous & Co., Campbell, Spera

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& Co., Lyon, MacKenzie & Powis, A. A. MacKenzie and E.  
Mills, trading as Mackenzie & Mills, Plaintiffs.

and

Georgina Jane Riley,

Defendant;

Upon the application of the Plaintiffs, Stobart Sons & Co., upon reading the consent endorsed hereon of the Advocates for the Plaintiffs other than the said Stobart Sons & Company, and the Advocate for the defendant;

It is ordered that the Plaintiffs, Stobart Sons & Company, be struck out of this interpleader issue, and that the said Stobart Sons & Co. do withdraw from this interpleader issue, but without altering any liability for costs of the said Stobart Sons & Company to any parties to this issue which may have been incurred to this date.

And it is further ordered that the issue herein be so amended and that the said Stobart Sons & Company be not liable for any costs whatever incurred after this date.

Calgary, 29th May, 1888.

Chas. B. Rouleau,

J. S. C.

EXHIBIT "U"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN:

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John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co., ~~Stobart Sons & Co.~~, Campbell Spera & Co., Lyon MacKenzie & Powis, and A. A. MacKenzie and E. Mills trading as MacKenzie & Mills, Plaintiffs,  
and  
Georgina Jane Riley, Defendant

Amended this 29th day of May 1888 pursuant to order of Rouleau, J. Dated 29th of May, 1888.

H. A. L. Dundas,

Clerk of Court.



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Whereas John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co., Campbell Spera & Co., and A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills affirm, and Georgina Jane Riley denies that the judgment recovered by the said Georgina Jane Riley against E. H. Riley doing business as E. H. Riley & Co., on or about the 19th day of March 1888 for the sum of \$2541.31, including costs, is fraudulent and void as against the said John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros' & Co., ~~Stobart Sons & Co.~~, Campbell Spera & Co., Lyon MacKenzie & Powis, and A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills; and it has been ordered by the Honorable Mr. Justice Rouleau that the said question shall be tried in the Supreme Court of the North-west Territories, Northern Alberta Judicial District, at the town of Calgary, before a jury.

H. A. L. D.

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Therefore let a jury come &c.

Longheed & McCarthy,

Plaintiffs' Advocates.

EXHIBIT V"

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

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John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros. & Co., Campbell, Spera & Co., Lyon, MacKenzie & Powis, A. A. MacKenzie and E. M. Mills, trading as MacKenzie & Mills,

Plaintiffs.

and

Georgina Jane Riley.

Defendant.

Upon the application of Stobart, Sons & Company, upon reading the affidavit of John P. J. Jephson, filed this day, and the affidavit of James A. Longheed sworn on the 17th inst. and filed;

Let all parties concerned attend the Judge in Chambers in Calgary on Saturday the 29th day

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of September, 1888, at eleven o'clock in the forenoon on the hearing of an application on the part of Stobart, Sons & Company above named, to restrain the Sheriff of this District from paying over the proceeds of any portion of the goods, the subject of this interpleader issue, pursuant to the order made herein on the 25th inst., and to direct an issue to be tried between the above named plaintiffs as plaintiffs and the said Stobart, Sons & Company as defendants, to try the right to said goods and the proceeds thereof, or that the style of cause in this interpleader issue be amended by substituting the name of Stobart, Sons & Company as defendants in lieu of the above named defendant Georgina Jane Riley; and that this interpleader issue stand for trial as previously directed.

- 10 And in the meantime let the moneys already in the hands of the said Sheriff, and the moneys which may hereafter come into his hands as such Sheriff, to the credit of this cause, be retained by him until further order; or in the event of any of the said moneys having been paid over by the said Sheriff, why the said moneys should not be returned to the said Sheriff or security given therefor pending the trial of this interpleader issue; and also let all other and further proceedings be stayed until the hearing of this application.

Dated at Chambers this 26th day of September, 1888.

Chas. B. Rouleau,

J. S. C.

This summons was taken out by John Pascoe Jarmy Jephson, of the Town of Calgary, N. W. T., Advocate for the above named Stobart, Sons & Company.

To Messrs. Longheed & McCarthy, Advocates for the above named plaintiffs; and to E. P. Davis, Esq., Advocate for deft.

EXHIBIT "W".

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
BETWEEN

John Myles O'Loughlin and MacRoy O'Loughlin, trading as  
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Kenzie & Powis and A. A. MacKenzie and E. M. Mills  
trading as MacKenzie and Mills.

Plaintiffs.

and

Georgina Jane Riley.

Defendant.

and

In the matter of the appeal by Stobart, Sons & Co. from the  
order of Mr. Justice Roulean, dated 29th September, 1888.

Appellants.

10 December 7th, 1888.

This cause coming on for argument in presence of Counsel for all parties; and judgment being reserved;

It is now ordered that the appeal be allowed and that the order for the interpleader issue in this matter, in the Northern Alberta Judicial District, the interpleader issue, the order of Mr. Justice Roulean of the 25th September, 1888, and his order of the 29th September, 1888, being the order appealed against, and all other proceedings in the interpleader matter be set aside, and that the execution in the suit of Georgina Jane Riley against E. H. Riley, doing business as E. H. Riley & Co., be forthwith returned by the Clerk of the Supreme Court of the Judicial District of Northern Alberta to the Sheriff of the said Judicial District, and that said writ of execution when 20 delivered to said Sheriff have like priority and effect with respect to any goods chattels and property in the Sheriff's hands and with respect to the proceeds of the sale of any goods chattels and property in the Sheriff's hands as if such execution had never been withdrawn, and that such Sheriff hold such execution subject to the control only of Stobart, Sons & Co. or their Agents or Advocate or to any order of a Judge in Court made in respect thereto, but that the Sheriff do not pay over any proceeds of any such sale before the expiration of three weeks from this date. And no costs of the said appeal be allowed to either parties.

(SEAL.)

By the Court,

On Motion of

Dixie Watson,

Mr. Secord,

Registrar.

30 Counsel for Appellants.

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Messrs. E. H. Riley & Co., in account with the Bank of Montreal, Calgary.

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	"	76 55		Z. Gravel, 500.	533 35
16	"	45		Cash items,	40 00
	"	63		Discount	
18	"	20	17	2. P. N. Ferguson & Mc-	
20	"	30		Murtry \$121.90 each	239 30
10					
23	"	267 05		Cash items	267 05
24	"	36 76	23	Discount	
	"	161 96	27	Ferguson & McMurtry	
27	"	150		\$121.90	119 20
	"	100		Cash items,	40
29	"	45	29	do	77 70
Mch. 3	"	50		do	72
	"	29 85	Mch 5	do	65
	"	45	6	do	40
20	"	62 50	15	do	36
	"	137 95	27	do	20
	"	74 50		do	10
July 9	Applied on past due bill	1 21	29	do	
		<u>1559 60</u>			<u>1559 60</u>

I certify that the above is a true copy of E. H. Riley & Co's. account, with particulars of discounts added.

W. H. Hogg,

Accountant.

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23rd Decr., 1889.

EXHIBIT "Y"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.



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BETWEEN

Georgina Jane Riley,

Plaintiff,

and

E. H. Riley, doing business as E. H. Riley &amp; Co., Defendant.

I, Edward Pease Davis, of the town of Calgary, in the Northwest Territories, Barrister, make oath and say:—

I. I did, on the 17th day of March, A. D. 1888, personally serve the above named defendant with copies of the statement of claim, writ of summons, notice of motion and order of His Lordship, Mr. Justice Rouleau this day dated which are now shown to me, and marked as exhibits 10 "A," "B," "C" and "D," respectively, by delivering the said copies to him at Calgary aforesaid.

2. I know the said defendant personally.

Sworn before me at the Town of Calgary, }  
 in the Northwest Territories, this } E. P. Davis.  
 17th day of March, A. D. 1888. }

W. T. Ramsay,

A Notary Public in and for the N. W. T.

EXHIBIT Y 2"

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
 NORTHERN ALBERTA JUDICIAL DISTRICT.

20 BETWEEN :

Georgina Jane Riley,

Plaintiff.

and

E. H. Riley doing business as E. H. Riley &amp; Co., Defendant.

I Thomas Riley, of the town of Calgary, in the Northwest Territories of Canada, clerk, make oath and say:—

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1. I am the husband and agent of the above named plaintiff, and have a personal knowledge of the matters in question herein.

2. The plaintiff herein advanced to the defendant herein by way of loan at his request, between the 21st day of July last past and the 29th day of September last past, the sum of \$2448.31.

3. The defendant has not repaid the said money or any part thereof, although requested so to do by the plaintiff, and still owes her the said amount.

4. The defendant has no defence to this action.

5. The financial affairs of the defendant are very much involved; his commercial paper has gone to protest; he has been sued in this Court, and is threatened with more suits.

10 6. The defendant has refused to give the plaintiff security for her claim, and I verily believe that the plaintiff will lose her just claim unless immediate judgment and execution are obtained herein.

Sworn before me at Calgary, this }  
16th day of March, 1888. } Thomas Riley,

T. Ede,

A Notary Public in and for the N. W. T.

EXHIBIT "Y 3"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

20 BETWEEN :

Georgina Jane Riley,

Plaintiff,

and

E. H. Riley, doing business as E. H. Riley & Co., Defendant.

Take notice that a motion will be made to His Lordship, Mr. Justice Rouleau, on Monday, the 19th instant at his Chambers in the Court House, at 11 o'clock in the forenoon, or so soon thereafter as Counsel can be heard, for leave to enter immediate judgment and issue immediate

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execution herein, on grounds disclosed in the statement of claim herein and the affidavit of Thomas Riley, filed; and further, take notice that upon and in support of such motion will be read the statement of claim herein, the affidavit of service thereof and the affidavit of Thomas Riley aforesaid.

E. P. Davis, of the town of Calgary,  
in the District of Alberta' Plffs.  
Advocate

To E. H. Riley, Esq., doing business as E. H. Riley & Co.

EXHIBIT "Y 4"

10 IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

Georgina Jane Riley, Plaintiff,

and

E. H. Riley, doing business as E. H. Riley & Co., Defendant.

Upon hearing Counsel for the plaintiff, and upon reading the statement of claim and notice of motion herein, and the order made by me in this matter on the 17th instant, and the affidavit of service of E. P. Davis.

It is ordered that the plaintiff be at liberty to enter immediate judgment herein against the  
20 defendant for the amount of her claim and costs, and to issue immediate execution thereon.

Dated at Chambers this 19th day of March, A. D. 1888.

Chas. B. Rouleau,

J. S. C.

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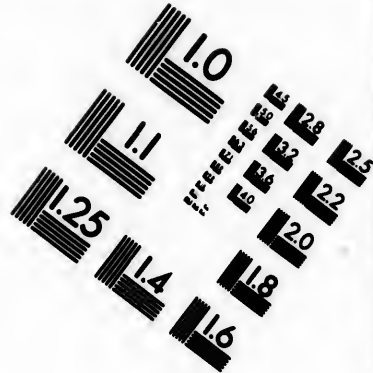
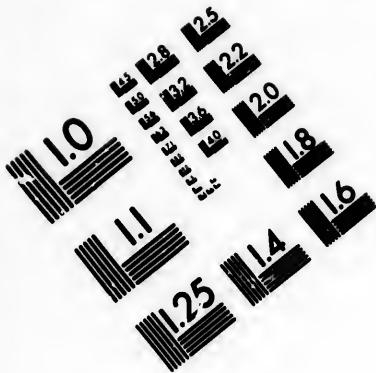
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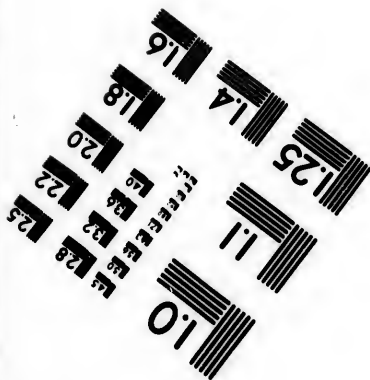
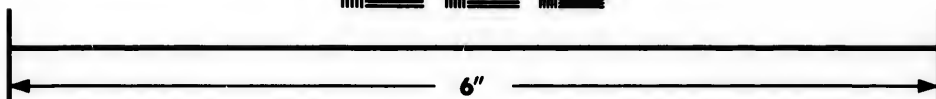
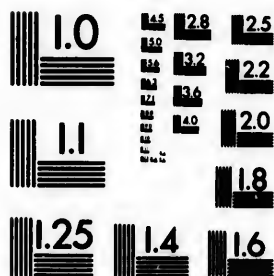
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**IMAGE EVALUATION  
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22 WEST MAIN STREET  
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## EXHIBIT "Y 5"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN

Georgina Jane Riley, Plaintiff,

and

E. H. Riley, doing business as E. H. Riley &amp; Co., Defendant.

19th March, 1888.

This day before His Lordship, Mr. Justice Rouleau, Mr. E. P. Davis, of Counsel for the plaintiff, moved on behalf of the said plaintiff, for immediate judgment and execution against the defendant in this cause, and the said Mr. E. P. Davis having been heard of Counsel for the plaintiff, and no one appearing for the defendant, the Court adjudged that the plaintiff recover against the defendant the sum of \$2,448.31 debt and costs to be taxed. Costs taxed at \$93.03. Total judgment \$2,541.34.

H. A. L. Dundas,

Clerk of Court.

## EXHIBIT "Y 6"

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

20 BETWEEN:

Georgina Jane Riley, Plaintiff,

and

E. H. Riley doing business as E. H. Riley &amp; Co., Defendant.

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PARTICULARS OF CLAIM :

To money loaned defendant by plaintiff at defendant's request, between the months of June and October, A. D. 1887..... \$2,448.31

The plaintiff claims the said sum of \$2448.31.

Dated at Calgary the 17th day of March, A. D. 1888.

E. P. Davis,  
Plfs. Advocate.

EXHIBIT " Y 7 "

WRIT OF SUMMONS.

10 CANADA,  
In the Supreme Court of the  
Northwest Territories,  
Northern Alberta Judicial }  
District.

BETWEEN :

Georgina Jane Riley, Plaintiff,

and

E. H. Riley, doing business as E. H. Riley & Co., Defendant.

20 VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN,  
DEFENDER of the FAITH, etc., etc., etc.

To the above named defendant ;

You are notified that the plaintiff has entered an action against you, in the above named Court for the recovery of the claim or demand, a statement of which is filed in Court and annexed to this summons.

And you are commanded that if you dispute the said claim either in whole or part, you

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do, within ten days from the service of this writ on you, exclusive of the day of such service, cause to be entered for you, in the office of the Clerk of this Court, an appearance, together with a statement of the grounds on which such dispute is based.

And take notice that in default of your so doing the plaintiff may proceed in said action, and judgment may be given in your absence and without further notice to you.

Issued at Calgary the 17th day of March, A. D., 1888.

(SEAL) H. A. L. Dundas,

Clerk of Court.

INDORSED :

10

N. B.——This writ is to be served within twelve months from the date thereof, or if renewed within six months from the day of the last renewal, including the day of such date, and not afterwards.

This writ was issued by E. P. Davis of Calgary, N. W. T. Advocate for the within named plaintiff.

No. 328

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EXHIBIT "Z"

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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

20

John Myles O'Loughlin and MacRoy O'Loughlin, trading as  
O'Loughlin Bros. & Co., Plaintiffs.

and

E. H. Riley, trading as E. H. Riley & Co., Defendant.

The third day of April, A. D. 1888.

Pursuant to the order of the Judge of this Court dated the 3rd day of April, 1888, whereby

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it was ordered that the plaintiffs might sign immediate judgment for the amount claimed in their statement of claim.

It is this day adjudged that the plaintiffs recover against the said defendants \$89.52 and costs to be taxed.

The above costs have been taxed and allowed at \$26.90, as appears by the taxing officer's certificate dated April 3rd, 1888.

H. A. L. Dundas,  
Clerk of Court.

EXHIBIT "AA"

10 IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN

A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills,  
Plaintiffs,

and

E. H. Riley & Co., Defendants.

The third day of April, A. D. 1888.

20 Pursuant to the order of the Judge of this Court, dated the 3rd day of April, 1888, whereby it was ordered that the plaintiff might sign immediate judgment for the amount claimed in their statement of claim.

It is this day adjudged that the plaintiffs recover against the said defendants \$210.10 and costs to be taxed.

The above costs have been taxed and allowed at \$260.20, as appears by the taxing officer's certificate, dated April 3rd, 1888.

H. A. L. Dundas,  
Clerk of Court

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## EXHIBIT "BB"

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 IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
 NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

Lyon, MacKenzie &amp; Powis, Plaintiffs.

and

E. H. Riley, trading as E. H. Riley &amp; Co., Defendant.

The third day of April, A. D. 1888.

Pursuant to the order of the Judge of this Court dated the 3rd day of April, 1888, whereby  
 10 it was ordered that the plaintiffs might sign immediate judgment for the amount claimed in their  
 statement of claim.

It is this day adjudged : e plaintiffs recover against the said defendants \$99.74 and costs  
 to be taxed.

The above costs have been taxed and allowed at \$28.02, as appears by the taxing officer's  
 certificate dated April 3rd, 1888.

H. A. L. Dundas,

Clerk of Court.

## EXHIBIT "CC"

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 IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
 NORTHERN ALBERTA JUDICIAL DISTRICT.

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BETWEEN

Campbell, Spera &amp; Co., Plaintiffs.

and

E. H. Riley &amp; Co., Defendants.

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The third day of April, A. D. 1888.

Pursuant to the order of the Judge of this Court, dated the 3rd day of April, 1888, whereby it was ordered that the plaintiff might sign immediate judgment for the amount claimed in their statement of claim.

It is this day adjudged that the plaintiffs recover against the said defendants \$79.15 and costs to be taxed.

The above costs have been taxed and allowed at \$26.26, as appears by the taxing officer's certificate, dated April 3rd, 1888.

H. A. L. Dundas,

Clerk of Court .

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EXHIBIT "DD"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

Stobart, Sons and Company,

Plaintiffs.

and

E. H. Riley and Company,

Defendants.

JUDGMENT.

The 5th day of April 1888.

20 The plaintiffs by the order of Mr. Justice Rouleau dated the 5th day of April 1888 obtained leave to sign judgment under section 233 of the Civil Justice Ordinance 1886 for the amount of their claim namely \$333.61.

It is this day adjudged that the plaintiffs recover against the defendants \$333.61 and costs which have been this day taxed at \$55.83 in all amounting to \$389.44.

H. A. L. Dundas,

Clerk of Court.

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## EXHIBIT "EE"

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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

H. Shorey &amp; Co.,

Plaintiffs.

and

E. H. Riley &amp; Co.,

Defendants.

The 2nd day of June, A. D. 1888.

Pursuant to the order of the Honorable Chas. B. Rouleau, Judge of this Court, dated the 1st day of June, 1888, whereby it was ordered that the plaintiffs should be at liberty to sign judgment for the amount of their debt and costs as claimed in the statement of claim and for costs of the plaintiffs' application for immediate judgment, and to issue execution forthwith upon such judgment.

It is this day adjudged that the plaintiffs recover against the said defendants \$678.86 and costs to be taxed.

The above costs have been taxed and allowed at \$112.44, as appears by the certificate of the Clerk of this Court dated the 2nd day of June, 1888.

H. A. L. Dundas,

Clerk of Court.

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EXHIBIT "FF"

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IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN

The Ames Holden Company, Limited,

Plaintiffs.

and

E. H. Riley & Co.,

Defendants.

Thursday, the 12th day of April, A. D. 1888.

- 10 Pursuant to the order of His Honor Judge Rouleau, dated the 12th day of April, 1888, whereby it was ordered that the plaintiffs be at liberty to sign final judgment herein against the defendants for the full amount of their claim and interest, if any, and costs.

It is this day adjudged that the plaintiffs recover against the said defendants \$218.13 and costs to be taxed.

The above costs have been taxed and allowed at \$52.85, as appears by the certificate of the Clerk of this Court.

H. A. L. Dundas,

Clerk of Court.

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## EXHIBIT "GG"

## WRIT OF EXECUTION.

10 Renewed for one year from the  
15th day of March, A. D. 1889.

H. A. L. Dundas,  
Clerk of Court.  
(Seal.)

CANADA,  
In the Supreme Court of the  
Northwest Territories,  
Northern Alberta Judicial  
District. }

BETWEEN :

Georgina Jane Riley, Plaintiff,

and

E. H. Riley, doing business as E. H. Riley & Co., Defendant.

Renewed for one year from the  
12th day of March A. D. 1890.

Edwin K. Rogers,  
Clerk of Court.  
(Seal.)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN,  
DEFENDER of the FAITH, etc., etc., etc.

To the Sheriff of the Northern Alberta Judicial District:

You are commanded that of the goods of the defendant in the Northern Alberta Judicial District, you cause to be made two thousand five hundred and forty one dollars and thirty four cents, which sum was lately by the judgment of the said Court recovered against him the said defendant, and that you have the money, and in what manner you shall have executed this writ make appear to the said Court at Calgary immediately after the execution thereof, before the said Court at Calgary together with this writ, immediately after the execution thereof.

Issued at Calgary this 19th day of March, A. D. 1888.

(SEAL.)

H. A. L. Dundas,

Clerk of Court.

## INDORSEMENTS ON EXHIBIT "GG"

Mr. Sheriff:

Levy the sum of \$2541.34 and interest thereon from the 19th day of March A. D. 1888, also \$2.10 for subsequent costs and \$5.00 for this writ, together with your own fees, costs, poundage

Edwin R. Rogers,  
Clerk of Court.  
(Seal.)

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and incidental expenses; and the sum of \$7.00 for costs of renewal of this writ 1889, and \$7.00 for the renewal of 1890.

Dated at Calgary March, 19th 1888.

E. P. Davis,

Plfs. Advocate.

(Seal.)

SHERIFF'S OFFICE, CALGARY, N.W.T.  
Received at 12.15 o'clk. P.M., this 19th  
day of March 1888. Folio 100.

By virtue of the within writ I have seized and taken in execution all the stock in the store  
10 occupied by the defendant on Stephen Avenue in the town of Calgary, N. W. T., consisting in  
part of boots and shoes, rubbers and moccasins, ready made clothing, hats, mens underwear, crock-  
ery, glassware, tin and platedware, pipes, cigars and sundries, stove and stove-pipes and a quantity  
of store furniture and fittings, and the defendant's interest in a certain lease of the store and cellar  
on Stephen Avenue, Calgary.

31st March 1888.

P. W. King.

By virtue of the within writ I have seized and taken in execution the defendant's interest  
in a certain lease of the store and cellar in that certain building which were leased to him by  
Daniel W Marsh of the town of Calgary and erected upon lot No. 6 in block No. 63, as said  
20 block and lot are laid out and marked upon a plan and survey of the townsite of Calgary, made by  
the C. P. R. Co., with privilege to the lessee of the use of the unoccupied portion of said lot in  
rear of said building in common with the other tenants of said building.

Calgary 6th April 1888.

P. W. King.

The above sale was adjourned until 3 o'clock p. m. on Thursday, the 19th inst.

Calgary, April 12th, 1888.

P. W. King.

The above interest was put up for sale by auction this day and adjourned for the want of  
purchasers.

19th April, 1888.

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The above sale is further postponed until Thursday, the 26th inst.  
19th April, 1888.

P. W. K.

Also by virtue of the within writ I have seized and taken in execution 5 cases of gents' furnishings and silverware, and adv. for sale for 18th inst.  
7th May, 1888.

P. W. King.

The goods seized under within execution in the deft's. store on Stephen Avenue, Calgary, were sold to-day to J. D. Cameron on account of Stobart, Sons & Co., for the sum of \$1533.74.

10th May, 1888.

P. W. King,  
Sheriff N. A. J. D.

10

The within writ has been withdrawn by the within named Georgina Jane Riley, per Mr. E. P. Davis, her Advocate.  
25th Sept. 1888.

P. W. King,  
Sheriff.

Received at 12.15 P. M. this 5th January, 1889, to be filed as at 12.15 P. M. of the 19th March, 1888, in pursuance of an order of the Court in banc, dated 7th December, 1888, made in the suit of O'Loughlin vs Riley, a copy of which order is hereto annexed. This writ is subject to the control of Stobart, Sons & Co. or their agent or Advocate, only, and not to the control of the plaintiff, Georgina Jane Riley or her Advocate, E. P. Davis, in pursuance of said order.  
5th Jany. 1889.

P. W. King.

The above sale was postponed from time to time until Friday the 8th day of Feby. 1889 when they were sold to I. G. Baker & Co. at 41 cents on the dollar on the invoiced value of \$586.93—less two cups and 1 doz. medium forks, valued at \$3.75,—\$239.10.  
8th Feby. 1889.

P. W. King.

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 EXHIBIT "HH"
 

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WRIT OF EXECUTION in suit of O'LOUGHLIN et al vs RILEY.  
 Dated 4th day of April 1888  
 Amount—\$116.42.  
 Delivered to Sheriff 4th April 1888, as 3-55 p.m.

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 EXHIBIT "I I"
 

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WRIT OF EXECUTION in suit of MACKENZIE et al vs RILEY.  
 Dated 4th day of April 1888.  
 Amount—\$260.20.  
 10 Delivered to Sheriff 4th April 1888, at 3.55 p. m.

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 EXHIBIT "J J"
 

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WRIT OF EXECUTION in suit of LYON et al vs RILEY.  
 Dated 4th day of April 1888.  
 Amount—\$127.76.  
 Delivered to Sheriff 4th April 1888; at 3.55 p. m.

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 EXHIBIT "K K"
 

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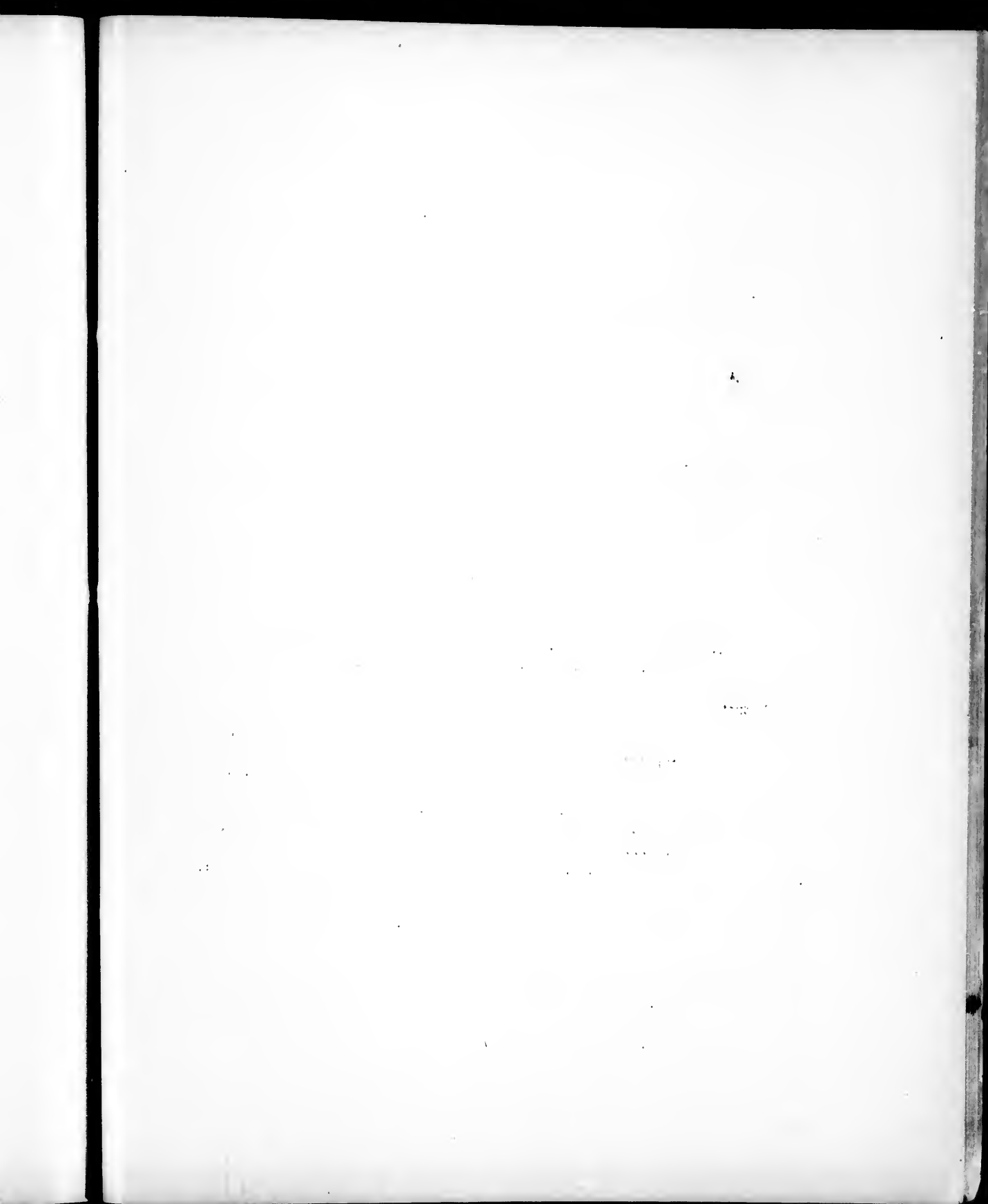
WRIT OF EXECUTION in suit of CAMPBELL et al vs RILEY.  
 Dated 4th day of April 1888.  
 Amount—\$105.41.  
 20 Delivered to Sheriff 4th April 1888, at 3.55 p. m.

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 EXHIBIT "L L"
 

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WRIT OF EXECUTION in suit of STOBART et al vs RILEY.  
 Dated 5th day of April 1888.  
 Amount—\$389.44.  
 Delivered to Sheriff 5th April 1888, at 1 p. m.



## EXHIBIT "MM."

WRIT OF EXECUTION in suit of AMES HOLDEN CO. vs RILEY.

Dated 13th day of April, 1888.

Amount—\$270.98.

Delivered to Sheriff 14th April, 1888, at 10 a. m.

## EXHIBIT "N N"

WRIT OF EXECUTION in suit of SHOREY et al vs RILEY.

Dated 2nd day of June 1888.

Amount—\$791.30.

10 Delivered to Sheriff 4th June 1888, at 10 a. m.

## EXHIBIT 'OO"

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

	Georgina Jane Riley,	Plaintiff.
No. 328	and	
	E. H. Riley doing business as E. H. Riley & Co.,	Defendant.
	John Myles O'Loughlin and MacRoy O'Loughlin	
	trading as O'Loughlin Bros. & Co.,	Plaintiffs,
No. 333	and	
20	E. H. Riley trading as E. H. Riley & Co.,	Defendant ;
	Stobart Sons & Co.,	Plaintiffs,
No. 335	and	
	E. H. Riley & Co.,	Defendant :
	Campbell Spera & Co.,	Plaintiffs,
No. 339	and	
	E. H. Riley & Co.,	Defendants.

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No. 340 Lyon MacKenzie & Powis, Plaintiffs,  
and  
E. H. Riley & Co., Defendants;

No. 341 A. A. MacKenzie and E. M. Mills trading as Mac-  
Kenzie & Mills, Plaintiffs,  
and  
E. H. Riley & Co., Defendants;

John Myles O'Loughlin and MacRoy O'Lough-  
lin trading as O'Loughlin Bros' & Co., Stobart  
Sons & Co., Campbell Spera & Co., Lyon Mac-  
Kenzie & Powis, A. A. MacKenzie and E.  
M. Mills trading as MacKenzie & Mills, Claimants,

and

The said Georgina Jane Riley, execution creditor, and the  
Sheriff of the Northern Alberta Judicial District,

Respondents ;

Upon hearing the Advocate for the Sheriff aforesaid and upon reading his affidavit, filed on  
the 9th day of April 1888, and the depositions of the defendant and Thomas Riley, and upon  
20 hearing Counsel for the said Georgina Jane Riley ;

It is ordered that the said Sheriff proceed to sell the goods seized by him under the several  
writs of fieri facias issued at the suits of the above named plaintiffs herein, and pay the proceeds of  
the sale, after deducting the expenses thereof, Sheriff's fees, poundage, possession money, adver-  
tising and rent, into Court to abide the further order herein ;

And it is further ordered that the parties proceed to the trial of an issue in the Supreme  
Court of the North West Territories, Northern Alberta Judicial District, in which the said claim-  
ants shall be plaintiffs, and the said execution creditor, Georgina Jane Riley, shall be defendant ;  
and that the question to be tried shall be whether the judgment of the said Georgina Jane Riley is  
fraudulent and void as against the said claimants ;

30 And it is further ordered that this issue be prepared and delivered by the plaintiffs therein  
within ten days from this date, and be returned by the defendant within four days, and to be  
tried at the town of Calgary before a jury ;

And it is further ordered that the question of costs and all further questions be reserved  
until the trial of the said issue, and that no action be brought against the said Sheriff for the  
seizure of the said goods.

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Dated at Chambers the 25th day of April A. D. 1888.

Chas. B. Rouleau,

J. S. C.

EXHIBIT " P P "

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN

10 Amended this  
2nd day of January,  
A. D., 1889, pur-  
suant to order of the  
Honorable Mr. Jus-  
tice Rouleau, dated  
the 2nd day of  
January, A. D.,  
1889.  
H. A. L. Dundas,  
Clerk of Court.

~~John Myles O'Loughlin and MacRoy O'Loughlin trading as  
O'Loughlin Bros. & Co., Campbell Spera & Co., Lyon  
MacKenzie & Powis, A. A. MacKenzie and E.M. Mills,  
trading as MacKenzie & Mills and H. Shorey & Co.,~~  
Plaintiffs,

and

Stobart, Sons & Co.,

Defendants ;

Upon the application of the Advocate for the plaintiffs, and upon reading the affidavit of P  
McCarthy, this day filed ;

I do order that the plaintiffs be at liberty to amend their writ of summons and all other pro-  
ceedings in this action by striking out the names of all the above named plaintiffs except those  
of H. Shorey & Co., and make such amendments in statement of claim as they may be advised.

20 Costs of such amendment to be paid by plaintiffs.

And I do further order that the plaintiffs H. Shorey & Co., be at liberty to proceed with this  
action in their own names as sole plaintiffs, and that they be at liberty to serve the writ of sum-  
mons so amended, and the summons granted herein on the 27th day of December 1888, upon the  
defendants at the City of Winnipeg, in the Province of Manitoba ; and that said defend- ts have  
twenty days to appear and plead to this action, and that said summons be amended and made  
returnable on the 15th day of January 1889, and that a copy of this order be served on defend-  
ants along with said writ of summons.

Dated 2nd January, 1889.

(Sgd) Chas. B. Rouleau,

J. S. C.

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## EXHIBIT "Q Q"

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN:

H. Shorey & Co.,

Plaintiffs,

and

Stobart Sons & Co.,

Defendants;

Upon the application of John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros & Co., Campbell Spera & Co., Lyon MacKenzie & Powis, A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills, and the Ames Holden Company Limited; and upon the consent of the Advocates for the Plaintiffs H Shorey & Co., and the Defendants;

I do order that the pleadings herein be amended by adding the said John Myles O'Loughlin and MacRoy O'Loughlin trading as O'Loughlin Bros & Co., Campbell Spera & Co., Lyon MacKenzie & Powis, A. A. MacKenzie and E. M. Mills trading as MacKenzie & Mills, and The Ames Holden Company, Limited, as party Plaintiffs in this action, and that the Plaintiffs be at liberty to amend the pleadings in other respects as they may be advised, and that the Defendants have ten days to plead to such amended pleadings; no costs of this application or amendments to either party.

Dated the 8th day of March, 1889.

Chas. B. Rouleau,

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## EXHIBIT "R R"

IN THE SUPREME COURT OF THE NORTH WEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

The Honorable Charles B. Rouleau }  
Judge Supreme Court }  
In Chambers }

BETWEEN :

H. Shorey &amp; Co.,

Plaintiffs,

and

Stobart Sons &amp; Co.,

Defendants ;

10

Upon the application of the Plaintiffs, upon reading the summons granted herein on the 27th day of December 1888, the affidavit of service, the enlargement, and upon hearing Counsel for the plaintiff and defendants.

It is ordered that the Sheriff of the Northern Alberta Judicial District do hold and retain the moneys in question herein now in his hands, and moneys which may come into his hands as proceeds of the goods and chattels in question in this suit, until the further order of this Court.

Costs of and incidental to this application to be costs in the cause to the successful party.

Dated this 17th day of January 1889.

Chas. B. Rouleau,

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J. S. C.

## EXHIBIT "S S"

STOREY et al vs STOBART et al

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## EXHIBIT "TT"

THIS INDENTURE made the eleventh day of May in the year of our Lord one thousand eight hundred and eighty eight.

BETWEEN Georgina Jane Hornsfield Riley, wife of Thomas Riley, formerly of Longueuil in the Province of Quebec, now of the town of Calgary in the District of Alberta, of the first part; and William Stobart, of Pepper Arden in that part of Great Britain and Ireland called England, and Frederick W. Stobart, of the city of Winnipeg in the Province of Manitoba, doing business as Stobart Sons & Co., of the second part;

WHEREAS the said party of the first part, on or about the nineteenth day of March, one 10 thousand eight hundred and eighty-eight recovered a judgment in the Supreme Court of the Northwest Territories, Northern Alberta District, against Ezra H. Riley, of the said town of Calgary, for the sum of two thousand four hundred and forty eight 39-100 dollars damages and ninety three 03-100 dollars costs making together the sum of two thousand five hundred and forty one 42-100 dollars.

AND WHEREAS the said party of the first part has agreed to assign the said judgment and all benefit to arise therefrom either at law or in equity unto the said parties of the second part in manner hereinafter expressed;

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the sum of two thousand five hundred and fifty one dollars of lawful money of 20 Canada to the said party of the first part in hand well and truly paid by the said parties of the second part, at or before the execution hereof, the receipt whereof is hereby acknowledged, she the said party of the first part hath granted, bargained, sold, assigned, transferred and set over, and by these presents doth grant, bargain, sell, assign, transfer, and set over unto the said parties of the second part their executors, administrators and assigns, ALL THAT THE SAID HEREINBEFORE MENTIONED JUDGMENT, and all and every sum and sums of money now due, and hereafter to grow due by virtue thereof, for principal, interest, and costs, and all benefit to be derived therefrom, either at law or in equity, or otherwise howsoever;

TO HAVE, HOLD, RECEIVE, TAKE AND ENJOY the same, and all benefit and advantage thereof, unto the said parties of the second part, their executors, administrators and assigns to and for 30 their own proper use and as and for their own proper moneys and effects absolutely.

And the said party of the first part hereby constitutes and appoints the said parties of the second part, their executors and administrators to be the true and lawful attorney and attorneys in the name of the said party of the first part, or otherwise, to ask, demand and receive of and from the said E. H. Riley, his executors or administrators, the said Judgment debt and promises hereby assigned, and on non-payment of the same, or any part thereof to obtain any execution or execu-

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tions, or bring, commence and prosecute any action or actions, suit or suits, as well as at law in equity, for the recovery of the same, and to use all such other lawful remedies, ways and means, as the said party of the first part could or might have used or taken for the recovery of the same, and on receipt or recovery thereof to sign and give good and effectual receipt or receipts for the same, with full power from time to time to appoint a substitute or substitutes for all or any of the purposes aforesaid.

And the said party of the first part doth hereby agree to ratify and confirm whatsoever the said parties of the second part their executors or administrators, shall lawfully do or cause to be done in or about the premises.

- 10 Provided that the hereinbefore mentioned costs are not hereby assigned and that any expenses incidental to enforcing said judgment are to be all the costs and charges of the party of the first part.

IN WITNESS WHEREOF the said parties hereto have hereunto set there Hands and Seals the day and year first above written.

SIGNED, SEALED AND DELIVERED  
in the presence of  
J. D. Cameron.

} G. J. Riley (SEAL)  
per Thos. Riley her attorney.

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**THE MERCANTILE AGENCY.****OF****Dun, Wiman & Co., R. G. Dun & Co., E. Russell & Co.**

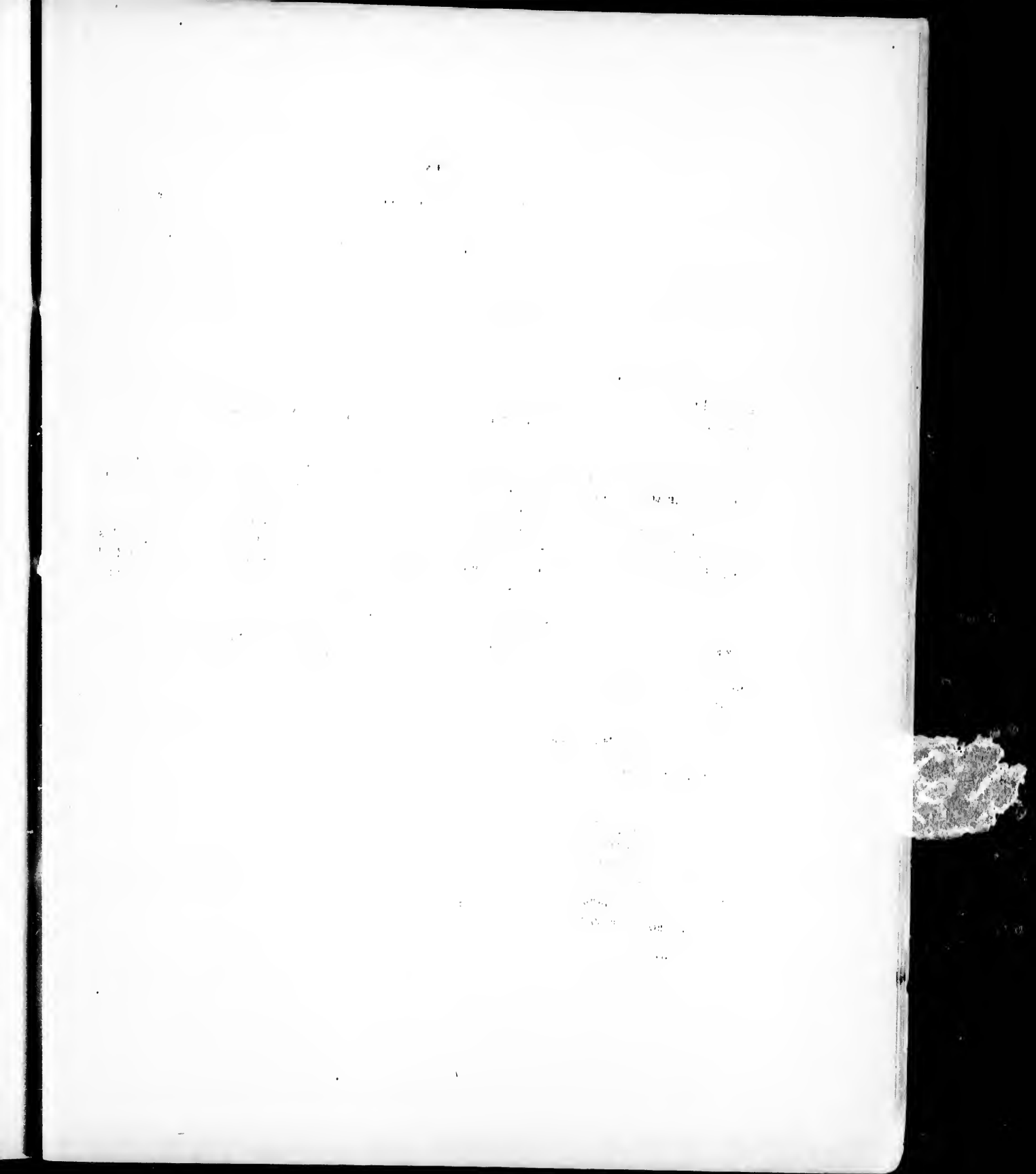
The information given on this sheet is an answer to an inquiry made by a subscriber to The Mercantile Agency, who asks for the same as an aid to determine the propriety of giving credit. The information is communicated under the conditions of an agreement signed by the said subscriber, who expressly stipulates that the said information is obtained by the servants, clerks, attorneys and employes of the said subscriber and on his behalf. The said agreement also expressly stipulates 10 that the said Mercantile Agency shall not be responsible for any loss caused by the neglect of any of the said subscriber's servants, clerks, attorneys and employes in procuring, collecting and communicating the said information; and the actual verity of the said information is in no manner guaranteed. The agreement further provides that the information thus communicated shall be strictly confidential; shall never be communicated to the persons to whom it refers, and that all inquiries made shall be confined to the legitimate business of the subscriber's establishment.

For Messrs Stobart, Sons & Co.,

City, No. 1333.

Nov. 1, 1887.

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## JUDGMENT.

This is an action to set aside a judgment of Georgina Jane Hornfield Riley against E. H. Riley, which said judgment was afterwards assigned to the defendants, as fraudulent and void, and that the executions issued thereunder may in like manner be set aside and that the plaintiffs may be paid upon their said executions the proceeds of said goods so sold and of those remaining to be sold.

This action was met by the following defence, to wit ;

Special denials of all the facts alleged in the statement of claim, and also that the defendants accepted the assignment of the said judgment recovered by Georgina Jane Hornfield Riley against E. H. Riley and became and are assignees and purchasers thereof in good faith and gave good valuable and adequate consideration therefor, and that they had not at the date of the said assignment, nor did they ever have nor have they since then acquired notice or knowledge of any actual or constructive fraud, collusion or want of consideration whatever in connection therewith or in connection with the claim on which said judgment was founded.

That under an agreement made between the said Georgina Jane Hornfield Riley and the defendants the said assignment of judgment was taken as collateral security for the repayment of certain advances, made by them to her, and on re-payment of said advances, the said Georgina Jane Hornfield Riley is entitled to a re-assignment of the said judgment.

That the said assignment was taken on or about the eleventh day of May, A. D., 1888, subsequently to the making of the interpleader order in the statement of claim mentioned.

20 That the plaintiffs having then all the knowledge relating to the matters in question which they are now possessed were parties to an agreement entered into between the creditors of E. H. Riley, other than the defendants, and Georgina Jane Hornfield Riley in September A. D. 1888, whereby they agreed to settle their alleged claims as against the judgment in question herein and to withdraw all proceedings that had been taken to set aside the same on the terms set forth in said agreement, and the defendants say that the plaintiffs are now precluded and estopped from impeaching the same upon any grounds whatsoever.

30 That the plaintiffs H. Shorey & Co, and the Ames, Holden Company, Limited, were not parties to the interpleader proceedings mentioned in the statement of claim and were and are not entitled to the benefit of the order made by the Supreme Court in banc on the 7th day of December, 1888, in the said interpleader proceedings and the monies in the hands of the Sheriff of the said District ought to have been paid over to the defendants under the terms of the said order, but have not been so paid over though demanded by the defendants.

That the plaintiffs have by delay on their part in their proceedings to impeach the said judgment, and more especially by their not taking such proceedings until long after the said assignment of judgment to the defendants, of which they had notice, acquiesced therein, and are now debarred from attacking the same.

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That the defendants will object that on the facts of the pleadings the said Georgina Jane Hornsfield Riley should have been a party to this action and that they are not necessary or proper parties and in no event ought they to be ordered to pay costs.

That the defendants further say that they are not execution creditors of E. H. Riley whose executions rank prior in date and in their receipt by the Sheriff to those of the plaintiffs and are subsequent to those of Georgina Jane Hornsfield Riley.

That the defendants say that writs of execution issued in the judgment by Georgina Jane Hornsfield Riley against E. H. Riley as aforesaid were placed in the hands of the proper Sheriff in that behalf that the said writs were therefore duly executed by the said Sheriff and payment of 10 the moneys realized by him thereunder was demanded by the defendants and ought to have been made long prior to the commencement of this action, and the defendants say that by reason of the premises the plaintiffs became and are estopped and debarred from impeaching or in any way attacking the said judgment or the writs of execution issued therein.

To this defence the plaintiffs made a special reply to the last paragraph whereby they allege notice given to the Sheriff not to pay over the money to the said Georgina Jane Hornsfield Riley as they intended to contest the validity of the judgment and executions &c, and also two replies in law to the same paragraph of the defence.

As there was no attempt on the part of the defendants to sustain either their answer in law or to argue the plaintiffs' objections in law to the 17th paragraph of their defence, I have reason 20 to believe that they found their position untenable, and therefore I will dismiss the defendants' answer in law, and sustain the plaintiffs' objections in law to the said 17th. paragraph of the defence.

The first and most important question to be decided in this case is this ; whether a fraudulent judgment duly assigned for good and valid consideration, can be attacked by the creditors of the assignors in the hands of the assignees.

By 13th. Eliz. C. 5, it is enacted that all and every feoffment, gift, grant, alienation &c, and all and every bond, suit, judgment, and execution, which have been and are devised and contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent, to delay, hinder or defraud creditors and others of their just and lawful actions, suits, debts &c, are declared to be 30 clearly and utterly void, frustrate and of none effect &c.

There are several exceptions to that enactment I find in Sec. VI of the same act that this, or anything therein contained shall not extend to any estate or interest in lands, tenements hereditaments, leases, rents, commons, profits, goods or chattels, had, made, conveyed or assured or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and bona fide lawfully conveyed or assured to any person or persons &c, not having at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid, but I cannot find any exception relating to judg-

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ments and executions and therefore the assignments of judgments must be governed by the common law.

The only case in point cited was that of *McDonald vs Boice* 12 Grants' Chancery Reports p. 48, where it was decided that a subsequent encumbrance had a right to impeach the judgment of a prior judgment creditor. In that case there was a bill filed impeaching the judgment recovered on cognovit by the defendant Joseph S. Beatty against one William Beaty and which had been assigned to the defendant Boice, on the ground that by the fraud of the parties the judgment had been recovered for an amount greatly in excess to what was due by William to Joseph S. Beatty thereby depriving the Plaintiff of the means of enforcing his judgment.

- 10 By analogy I think this case should be decided on the same principle as the case of *Pressey vs, Trotter* Q. C. Grant p. 154, where the rule was laid that an assignee of a mortgage takes it subject to all the existing equities.

On the part of the defendants the case of *Trotter vs Douglas* 18 Grant p. 341 was greatly relied upon, but in reading carefully the case, I am of opinion that the facts are very different, Gwynne J. states in his judgment that if the estate which was conveyed by the mortgage executed by Alexander Douglass in favor of his son James still remained vested in James, the transaction would be open to impeachment as a mortgage fraudulent and void against the creditors of Alexander, under 13th, Eliz. Chap. 5; but James Douglas having conveyed that estate to Cook, and Cook having conveyed it to Nesbitt before any steps had been taken to impeach and avoid the mortgage, we have now to decide what is the effect of these two separate alienations of the estate. So that the action instituted in that case is quite different to the action instituted in this. The Sheriff in this case was notified that the creditors would attack the validity of the judgment before it was assigned at all, and the very defendants in this case were amongst the creditors who notified the Sheriff. It was declared also in that case that the property was never vested in James Douglas, but he acted only as the agent of Alexander Douglas, so that the action against James could not be sustained in any case. In the case of *Elloit vs McConnell* 21 Grant p. 376, it was clearly decided that the assignee of a mortgage, like the assignee of a promissory note (after maturity) or other chose in action, takes the same subject to all equities, as well those of third parties, as those of the parties to the instrument and Strong, P. C. in his judgment makes use of the following language. "There is a number of cases, of which I may mention the decision of the full Court in *Smart vs McEwan*, and my own decision in *Rychman vs The Canada Life Assurance Company*, 17 Gr. 550, in which it has been determined that the assignee of a mortgage, like the assignee of a chose in action, stands in no better position than the assignor, the original creditor or mortgagee, and this not merely as regards the debtor or mortgagor, but as regards the world". In conclusion I must add that I cannot see the difference between the assignment of a mortgage, or chose in action and a judgment. I think the same law governs them all and I am therefore of opinion that the assignment of a fraudulent judgment duly assigned for good and valid consideration can be attacked or impeached by the creditors of the assignor and that the assignee takes that judgment subject to all equities. Now returning to the facts of the case, I find that on the 19th day of  
40 March 1888, Georgina Jane Riley obtained judgment against E. H. Riley & Co. for the sum of

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\$2448.31 and costs. The writ was issued on 17th day of March and judgment obtained on a notice of motion for judgment upon the affidavits of Thomas Riley, the plaintiff's husband. This execution as well as many others were placed in the hands of the Sheriff, and on the 6th day of April 1888, M. M. Lougheed & McCarthy on behalf of O'Loughlin et al MacKenzie et al; Lyon & al, and Campbell & al; and Mr. Jephson on behalf of Stobart Sons & Co. gave a notice in writing to the Sheriff that they intended to contest the validity of the judgment and execution in the suit of Georgina Jane Riley vs E. H. Riley. Upon those two notices the Sheriff applied to me by his affidavit on behalf of the above judgment creditors for an interpleader summons which was granted on the same day. On the 29th day of May 1888 an interpleader issue was taken and on the 10 same day Stobart Sons & Co. had their names struck out from the same. On the 11th day of May of the same year, M. M. Stobart Sons & Co. got the assignment of Georgina Jane Riley's judgment. Afterwards the above orders for interpleader summons and issue were set aside by the Supreme Court in banc on the ground that I had exceeded my jurisdiction as our law in that respect is not similar to that of Ontario and the parties placed in the same position as they were before the Interpleader order was granted. The judgment of the Supreme Court in banc was delivered on 7th Dec. 1888, and proceedings to set aside the judgment in this case taken on the 27th day of the same month, within the time specified by the judgment of the Supreme Court in banc.

At the trial of this case Thomas Riley was examined and without entering into long comments on his testimony I will merely say that he swore amongst other things, that the money 20 advanced to his son by Mrs. Riley, was advanced in a motherly kind of way, she was not to get any interest. It was for the purpose to help my son. There was no arrangement about the repayment of that money. No acknowledgment of that money or promissory note taken by Mrs. Riley. Mrs. Riley's name does not appear in the books at all, and no sums received from Mrs. Riley appear, nor is there anything to show that Mrs. Riley's money was a liability to the business. In all his evidence Thomas Riley cannot say how that sum of \$2448.31 was advanced to his son by Mrs. Riley. He cannot give a detailed account of that amount. With the exception of £123, 0, 0 which he handed to his son himself, he cannot swear to any other amount advanced.

E. H. Riley was also examined in this case and he swears that he cannot remember the exact amount of money he got from his mother, and cannot either give any detail. So according to the 30 evidence of the parties who are supposed to have received the money loaned by Mrs. Riley, it is impossible to form any idea what sums of money Mrs. Riley has advanced, although it was at the suggestion of Thomas Riley that she took judgment for the large amount of \$2448.31. In view of that evidence, I cannot come to any other conclusion than that amount of money for which judgment was obtained was never advanced, and if part of it was advanced at all, the evidence shows that it was advanced not as a loan, but as a gift, and that therefore the judgment obtained by Mrs. Riley was fraudulent and void as against the creditors.

A great many authorities have been quoted to show that such transactions between relatives are looked upon by Courts of Justice as suspicious, if the testimony of the parties interested is not corroborated, and I may add that it is a well settled jurisprudence that transactions of this kind 40 ought not to be held sufficiently established by the uncorroborated testimony of the parties to it.

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There are several other points raised in this case, but I am not going to adjudicate on them, for if the law as laid down by me in this case is correct, there is no necessity for me to refer to points which cannot materially affect this case. The judgment of the Court is that the said judgment recovered by Georgina Jane Hornsfield Riley against E. H. Riley and assigned to the defendants is declared fraudulent and void and is set aside and vacated, and that the executions issued thereunder are in like manner set aside, and that the plaintiffs be paid upon their said executions the proceeds of said goods so sold and of those remaining to be sold, the whole with costs of this suit against the defendants.

Chas. B. Rouleau,

10 Calgary, 17th Feb., 1890.

J. S. C.

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES,  
NORTHERN ALBERTA JUDICIAL DISTRICT.

BETWEEN :

H. Shorey & Co., John Myles O'Loughlin and MacRoy  
O'Loughlin trading as O'Loughlin Bros. & Co., Campbell,  
Spera & Co., Lyon, MacKenzie & Powis, A. A. MacKenzie  
and E. M. Mills, trading as MacKenzie & Mills, and the Ames  
Holden Company, Limited, Plaintiffs,

and

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Stobart Sons & Co.,

Defendants ;

NOTICE OF APPEAL.

TAKE NOTICE that the defendants appeal against the judgment of the Honorable Mr. Justice Rouleau, rendered herein on the 27th day of February, 1890, whereby judgment was ordered to be entered for the plaintiffs, and the judgment of Georgina Jane Hornsfield Riley against E. H. Riley, doing business as E. H. Riley & Co., and assigned to the defendants, was declared fraudulent and void, and was set aside and vacated, and that the executions issued thereunder were in like manner set aside, and that the plaintiffs should be paid upon their said executions the proceeds of the goods sold and those remaining to be sold; the whole with costs.

And take notice that at the sittings of this Court, in banc, to be held at Regina at 10 o'clock  
30 in the forenoon of the second day of June, 1890, or so soon thereafter as Counsel can be heard, a motion will be made on behalf of the defendants to the Court in banc by way of appeal from the said verdict and finding and judgment aforesaid, and for a judgment entered herein for the defend-

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ants, or that a new trial be directed to be had between the parties herein, and that the plaintiffs be ordered to pay the defendants' costs of the said appeal, and their costs in the Court below.

And take notice that the grounds of the defendants' said appeal are, among others, as follows:—

1. That the said verdict is against law and evidence and the weight of evidence ;
2. That the said verdict is wrong inasmuch as the learned Judge found that the said judgment of Georgina Jane Hornsfield Riley against E. H. Riley doing business as E. H. Riley & Co. could be attacked in the hands of a bona fide purchaser without notice ;
3. That the evidence showed that there was a bona fide advance of the amount of said judgment made by the said Georgina Jane Hornsfield Riley to the said E. H. Riley on the express understanding that the same was to be re-paid to her.
4. That the learned Judge erred in finding that the said judgment was fraudulent and void as against the creditors of the said E. H. Riley.

Dated this 17th day of March 1890.

Yours &c.,

Smith & West,

Defendants' Advocates.

To

Messrs. Loughed McCarthy & Beck,

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Plaintiffs' Advocates.

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