

REGISTRY LAWS—Continued.

to Bid at Public Sale—Legality.] In 1893 one M. purchased at a public Crown land sale a license to cut lumber on a block of land, and a license was issued to him dated September 1st, 1893, to remain in force until August 1st, 1894. By the Crown land regulations incorporated in the license, the license might be assigned by writing, the assignor to give notice thereof to the Surveyor-General, and the assignment to take effect from the date at which such notice should be received at the Crown land office. Licensees who paid their stumpage dues by August 1st in each year were entitled to annual renewals for such parts of the ground held by them as might at the first day of July in each year be vacant and unapplied for, on payment of the mileage thereon on or before the first day of August; and such renewals could be for 24 years from August 1st, 1894. Previous to the above sale, one L., being desirous of securing certain lumber privileges in a part of the area included in the license to M., entered into an agreement with him that he (M.) should buy the block, and afterwards secure these privileges to L. Accordingly, after the sale, they entered into a written agreement, dated August 31st, 1893, prepared by the Surveyor-General, reciting that M. had agreed to sell to L. for the term for which a license should issue, and renewals, the right to cut, carry away, and appropriate to his own use cedar lumber in a certain area, and lumber of all kinds in another area, in consideration of \$40; and witnessing that L. agreed to pay M. the renewal mileage each year on a certain number of miles during the continuance of the privilege at the rate fixed from year to year by the government; and M. agreed to renew the license. The agreement immediately after its execution was filed in the Crown land office. Subsequently L. assigned his rights under the agreement to the plaintiffs. This assignment was never filed in the Crown land office. On November 16th, 1894, M. assigned the same license, among others, to the defendants, who were purchasers for value, and without notice of M.'s agreement with L. and on the assignment being produced to the Crown land office a renewal for the year beginning August 1st, 1894, was issued to them. In August, 1895, a tender to M. and the

REGISTRY LAWS—Continued.

defendants of L.'s share of the renewal mileage was refused. In a suit for a declaration of the rights of the parties: *Held*, (1) that the agreement between M. and L. entered into before the sale was not illegal as being an agreement to stifle competition at a public sale, (2) that the license purchased by M. did not convey an interest in land, and therefore that it could be assigned without an instrument under seal registered in the county where the land was situate, (3) that the defendants were under no duty to search at the Crown land office as to the title of M. to assign the license, (4) that the agreement of M. and L. was not an assignment of the license, but at most a mere sub-license, conferring no right of renewal against the Crown, and amounting only to a sale of, or an agreement to sell, rights under the license, enforceable by specific performance against M. upon the license being renewed to him, or, if not renewed, giving rise to an action at law for breach of agreement, and giving L. or his assigns no rights against the defendants. LAUGHLAN v. PRESCOTT406

—Creditors' deed—Assignment of personally—Filing—Bills of Sale Act, 1893 (56 Vict. c. 5)122
See CREDITORS' DEED, 1.

RES JUDICATA—Bill—Demurrer.] A bill is not demurrable on the ground of *res judicata*, unless it appears in the bill itself that the matters alleged in it were in controversy and were adjudicated upon in the former suit. Where a bond given with a mortgage in pursuance of an agreement to secure a debt has been held valid in an action thereon, the defence of *res judicata* will lie to a suit to set aside the bond, mortgage and agreement. SMITH v. THE HALIFAX BANKING COMPANY17

RESTRAINT OF TRADE—Agreement—Illegality487
See PHYSICIAN.

RESULTING TRUST—Creditors' deed—Validity83
See CREDITORS' DEED, 2.

—Husband and wife—Purchase in name of wife—Presumption—Rebuttal576
See TRUST, 3.