

the amounts claimed to be due for principal, interest, and costs respectively, as prescribed by the Mortgages Act, 10 Edw. VII. ch. 51, sec. 27; and second, the defendant proceeded before the expiration of the month to put up posters and to advertise the sale in a newspaper. This was a "further proceeding" under the statute: *Gibbons v. McDougall* (1879), 26 Gr. 214; *Smith v. Brown* (1890), 20 O.R. 165. The present provision is sec. 28 of the statute cited above. The notice of exercising the power of sale and subsequent proceedings by the defendant were set aside and declared null and void. Judgment for the plaintiff for \$5 damages. The defendant opposed the motion for an injunction, and the plaintiff had to go to trial; and so the defendant must pay the costs on the High Court scale. E. G. Porter, K.C., for the plaintiff. A. Abbott, for the defendant.

MATSON V. MOND NICKEL CO. LIMITED—KELLY, J.—DEC. 30.

Master and Servant—Injury to Servant—Miner at Work Underground—Stone Falling from Pentice—Negligence—Failure to Complete Scaling—Damages.—The plaintiff sought damages for injuries sustained while working as a miner in the employment of the defendants in a mine operated by them. While the plaintiff was engaged in drilling at the bottom of the mine, a stone or piece of rock fell from the under side of the pentice, several feet above him, and caused the injuries complained of. The pentice was formed of solid rock; and its object was to afford protection to the workmen at the bottom of the shaft against the danger of objects falling upon them from the higher levels. The plaintiff alleged that the defendants were negligent in not having the walls of the shaft and the under side of the pentice properly sealed; and the learned Judge, who tried the action without a jury, so found, upon conflicting evidence, which he discussed at length; and found also that the plaintiff had been directed by the foreman to proceed with the drilling before the scaling, which had been begun, had been finished. The learned Judge assessed the damages at \$750, and gave judgment for the plaintiff for that sum with costs. J. S. McKessock, for the plaintiff. J. A. Mulligan, for the defendants.