

Divisional Court.] **MENDELS v. GIBSON.** [Feb. 2.

Mortgage—Sale on credit—Account of proceeds—Removal of building from mortgaged property—Subsequent action on covenant.

A mortgagee who without special power to that effect sells the mortgaged property on credit, is chargeable with the purchase price as if it had been received by him in cash.

The principle that a mortgagee cannot sue the mortgagor on his covenant unless he is in a position to reconvey the mortgaged property to him intact does not apply to the case where the mortgagee is in a position to restore the whole of the mortgaged property, but owing to the removal or destruction of a building on the mortgaged property it is not in the condition in which it was when the mortgagee took possession, unless, semble, the building is of such a character that compensation in money, which the mortgagor is in such an event entitled to, would not be an adequate indemnity.

Re Thuresson (1902), 3 O.L.R. 271, distinguished.

Judgment of *ANGLIN, J.*, reversed.

Watson, K.C., for appellant. *Delamere, K.C.*, for respondent.

Meredith, C.J.C.P., Anglin, J., Magee, J.] [Feb. 6.

REX v. BAILEY.

Summary conviction—Application to quash—Liquor License Act—Information in writing—Improperly laid.

The defendant had been convicted before the Police Magistrate for the City of Belleville for drinking liquor on premises in the County of Hastings not under license at the time of the purchase of such liquor. The information, though stated in the body thereof to have been laid by George W. Faulkner, License Inspector for the North Riding of the County of Hastings, instead of having his own signature appended thereto, bore the name George W. Faulkner, per P. A. Lott.

Held, that the information, laid as it was by one person on behalf of another, was not a compliance with s. 94 of the Act, which, read with form E, in the schedule incorporated therewith, required that the information should be "laid and signed by the informant in writing."

DuVernet, for defendant. *McGregor Young*, for magistrate.