The assessor having been erroneously informed that Pape was the owner of an island in Lake Rosseau called D., put down Island D. in the non-resident division of the assessment roll with the name "Robert T. Pape." This was done to distinguish it from another Island D. in the same lake and township. He did not know that this Island D. was one of the group belonging to Hall, though he knew that Hall was putting improvements on one of the islands, which was, in fact, Island D. or Oak Island. He supposed that the name of the improved island was Flora, and this was the name of one of Hall's Islands, a small rock on which there were no improvements. The improved island was the one meant to be assessed and actually assessed, though under a wrong name. The taxes so assessed were actually paid. In 1883, the Island D. was sold for arrears of taxes for the years 1879, 1880, 1881 and 1882. The purchase money was $1.00, although the value with the improvements was about $1,000, no inquiry having been made as to its value, and the township officials having apparently taken no pains to acquire any information about it beyond what appeared on the assessment roll:

Held, [affirming the judgment of the Chancery Division] that Island D. being identified as that intended to be assessed and being that on which the improvements had been made, the owner was not affected by the mistake of the assessor in describing it as Flora Island; and that the taxes having been duly paid the sale was void.

Semble per HAGARTY, C.J.O., PATTERSON and OSLER J. J. A., that the sale would also be void as not having been under the circumstances openly and fairly conducted within the meaning of section 155.

The duty of the county treasurer in reference to tax sales observed upon.

Hall v. *Hall* 2 E. and A. 569; *Haisley* v. *Somers*, 13 O.R. 605 considered.

Semble, a sale for more taxes than are actually due cannot be supported under section 137, where section 155 does not apply, in consequence of the sale not having been openly and fairly conducted.

Yokkam v. *Hall* 13 Gr. 235, *Edinburgh Life Ins. Co.* v. *Ferguson* 32 U.C.R. 253, followed.

Semble, that Island D. or Oak Island should have been assessed on the resident instead of the non-resident division of the assessment roll.

Per PATTERSON, J.A., observations as to assessment of several parcels of non-resident land less than 200 acres for statute labor.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

Full Court.] [Dec. 22.

REGINA v. SMITH.

Canada Temperance Act—R.S.C. c. 106. s. 100, construction of "Not less than $50"—Penalty —Powers of magistrate.

The words "not less than $50" and "not less than $100" in the Canada Temperance Act, R.S.C. c. 106, s. 100, should be construed as "$50 and no less" and "$100 and no less"; and a summary conviction by a police magistrate for a first offence against the Act was quashed because the penalty imposed, $75, was beyond the jurisdiction of the magistrate; FALCONBRIDGE, J., dissenting.

Regina v. *Cameron*, 15 O.R. 115, not followed.

Stimpson qui tam, v. *Pond*, 2 Curtis (Mass.) 502, referred to and approved.

S. A. Jones, for the defendant.

Delamere, for the complainant.

Chancery Division.

Full Court] [Dec. 15, 1888.

JONES v. MCGRATH.

Deed of land—Husband and wife—Consideration —49 Vic. c. 20, s. 6—R.S.O. 1887, c. 100 s. 6.

An action for the recovery of land. One of the deeds in the chain of title was a conveyance from the defendant direct to his wife, dated Oct. 18, 1884, which the defendant contended was a void conveyance. It purported to be for the consideration of $100, the receipt being acknowledged in the usual way in the body of the deed and in the margin. The plaintiff got his conveyance from the wife of the defendant on March 28, 1887, and therefore after the enactment of 49 Vic. c. 20, s. 6, which makes a receipt for consideration