

the money secured thereby, in which defendant pleaded that the mortgage had been obtained by fraud, and judgment was given in his favor on that issue.

Held, that the defendant could not set up the judgment as a defence in this action, not having placed the plaintiff in *statu quo* by restoring to him possession of the premises.

Semble, that the plaintiff's notice of claim was sufficient, and that, if necessary, an amendment of it could have been allowed.

WILLIAMS v. MCCOLL.

Tax sale—29, 30 Vict. c. 53—Certificate—Description of land.

A certificate given for the portion of a lot sold for taxes on the 12th of Nov., 1867, under 29, 30 Vict. c. 53, stated it to be the 1-27th part, without further describing it. The deed given on the 19th April, 1871 described the land by metes and bounds.

Held, that the deed was void.

SCOTT v. THE GREAT WESTERN RAILWAY COMPANY.

G. W. R. W. Co.—31 Vict. c. 68, sec. 20, sub-sec. 4, D.—as amended by 34 Vict. c. 43, sec. 5, 7, D.—Whether applicable to.

Held, that sec. 20, sub-sec. 4 of The Railway Act, 1868, 31 Vict. c. 68, D., as amended by 34 Vict. c. 43, sec. 5, D., is not, by virtue of sec. 7 of the latter Act, made applicable to the G. W. R. W. Co.; and, therefore, that they were not deprived of the protection afforded by one of their special conditions, which stated that fruit was to be carried only at the risk of the owners and that they would not be liable for injury occasioned by frost, although the jury found that the goods became frozen owing to their negligence.

CLUXTON v. GILBERT.

Covenant—Liability on.

On December 1st, 1864, defendant, being seized in fee of certain land in trust for his son, at the request of the son, mortgaged it to B. & V. for \$400, the son receiving the money and agreeing to pay it off; and on September 21, 1866, the defendant conveyed to his son, the operative word being "grant" only, and the consideration stated being \$400, but in reality it was a gift or release of the father's estate;

the deed also, by inadvertence or mistake, and without any agreement to that effect, contained a covenant for the right to convey, notwithstanding defendant's acts, and also that he had done no act to encumber the land. On the 21st October, 1866, the son mortgaged the land to the plaintiff as collateral security for a then existing debt, for goods supplied to the son, who kept a store, and for any future advances to be made by the plaintiff to him. This mortgage not having been redeemed, was on the 27th April, 1870, foreclosed. At this time there was due on the mortgage to B. & V., for principal and interest, \$606, which the plaintiff, on defendant's refusal to do so, was obliged to pay. It did not appear that the plaintiff had any knowledge of the trust between father and son, or of the arrangements between them as to the mortgage to B. & V., nor had he any knowledge of its existence until after the foreclosure. It appeared, however, that it, together with the other conveyancing, had been duly registered, and that the land was worth both the mortgages.

The plaintiff having brought an action against the defendant, on the defendant's covenant contained in the deed from him to the son, to recover the amount paid to B. & V.,

Held, that the plaintiff was not entitled to recover.

THE CANADA PERMANENT BUILDING AND SAVING SOCIETY v. AGNEW.

Sale of land for taxes—Separation of counties—29, 30 Vict. c. 51, sec. 51—32 Vict. c. 36, sec. 132—32 Vict. c. 36, sec. 155—Construction of.

Where taxes had accrued due on certain lands in the County of Bruce, before the separation of that County from Huron, which took place on the 1st of January, 1867,

Held, that the Treasurer of the County of Huron, before the 32 Vict. c. 36, sec. 132, O., could not sell such lands for these taxes.

Held, also, that the sale was not made valid by 32 Vict. c. 36, sec. 155, O., as it only applies to deeds given by the Sheriff or Treasurer having authority.

COURT OF CHANCERY.

GREEN v. CARLY.

Will—Construction.

A testator by his will devised the real estate of which he should die possessed to his wife "to hold the same for ever, and to dispose of it in