

Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

It appeared that the plaintiff asserted a cause of action in which no one but himself was interested, viz.: a claim for damages for the flooding of the land leased by him but that there were several other persons interested in establishing the liability of the defendants for flooding their lands by the same overflow of which the plaintiff complained and that these persons had agreed to contribute to the plaintiff's costs of this suit. It was alleged by the defendants, but denied by the plaintiff, that he had not means sufficient to pay the costs of the action if it was decided against him.

*Held*, that the defendants were not entitled to security for costs.

*Clark v. St. Catharines*, 10<sup>o</sup> P. R. 205, distinguished.

*Arnoldi*, for motion.

*Holman*, contra.

[October 20.]

## KEEFER v. MCKAY.

*Registry Act—Subsequent deed registered first—Clouds on title.*

The policy of the Registry Act is to make the Registry Office the place where the records of title to every man's property must be registered and to make the registration of instruments notice. To enforce that policy it provides that a subsequent deed from the same grantor shall, on registration, divest a grantee of an estate conveyed by a prior but unregistered deed, and vest such estate in the subsequent grantee.

The registration of any instrument which casts doubt or suspicion on a title, or which embarrasses the owner in maintaining his estate, or in disposing of his property, is a cloud upon the title against which the courts will relieve. And in such case it is sufficient if there be a registered instrument apparently valid on its face accompanied by a claim of title, although an intruder on the claim of title, which is likely to work mischief to the real owner.

It is a principle of Courts of Equity that they will not sell or enforce a sale of lands with a cloud on the title or where the title is too doubtful to be settled without litigation, or where the purchase would expose the purchaser to the danger of litigation.

A purchaser at a sale of lands, held under

an order of court, objected to the title on the ground that four deeds had been registered against half of the lot by parties who apparently intruded the deeds on the registered title, one of which parties notified the purchaser that he claimed some interest in the lands:

*Held*, that such registered deeds were clouds upon the title and that the purchaser could not be compelled to take such title.

Osler, J. A.]

[October 29.]

## THE QUEEN v. BASSETT.

*Conviction under the Vagrant Act.*

A motion for the discharge of the prisoner who was convicted by the Toronto Police Magistrate and sentenced to five months imprisonment under the Vagrant Act.

*Held*, that the Vagrant Act does not warrant an arrest much less a conviction on mere suspicion of dishonest intentions or suspicion of vagrancy. Before a person can be convicted of being a vagrant of the first class named in the Act ("all idle persons who not having visible means of maintaining themselves live without employment") he must have acquired in some degree a character which brings him within it, as an idle person who having no visible means of maintaining himself, i.e., not "paying his way" or being apparently able to do so yet lives without employment.

The prisoner was arrested at the Union Station, Toronto, having been pointed out to the police by some railway officials as a suspicious character, and had upon his person when arrested two cheques, one for \$1,700, the other for \$900, which were sworn to be such as are used by "confidence men," a mileage ticket (nearly used up) in favour of another person, and \$8 in cash. He vouchsafed no explanation of the cheques or the ticket and gave no information about himself. Under these circumstances an order was made for the prisoner's discharge.

*Morison*, for the prisoner.

*J. R. Cartwright*, for the Attorney-General.