

Q. B. Div.]

NOTES OF CANADIAN CASES.

[Chan. Div.]

of, she and her husband not living on the land, with money raised by mortgage thereof, and with money borrowed from her sons, the plaintiff purchased the chattels in question herein, which were seized under execution against the husband.

*Held*, that the chattels were her separate property within the meaning of R. S. O. cap. 125, sect. 1, and free from the debts of her husband.

Armour, J.]

[May 16.]

REGINA v. CLARKE.

*Conviction—House of ill-fame—32-33 Vict. c. 32.*

*Held*, that a conviction under 32-33 Vict. c. 32, sect. 2, ss. 6, for being an *unlawful* (instead of an *habitual*) frequenter of a house of ill-fame, and which adjudged the payment of costs, which is unauthorized by the statute, must be quashed.

That section makes the being such habitual frequenter a substantial offence, punishable as in sect. 17, and does not merely create a procedure for trial and punishment.

In Banco.]

[May 26.]

O'BRIEN v. CLARKSON.

*Assignment in trust for creditors—Trustee's powers.*

An assignment in trust for creditors contained a clause which, amongst other things, empowered the trustee to sell for cash or on credit, and *with or without security*, for the unpaid purchase money.

*Held*, that the introduction of the words "with or without security," was immaterial, and did not invalidate the assignment, there being no proof of any design on the part of the debtors to so enable the trustee to unfairly delay the realization of the assets.

In Banco.]

[May 26.]

CANAVAN v. MEEK.

*Sale of land—Assumption of mortgage by purchaser—Liability to pay off and protect vendor.*

M. conveyed land to the plaintiff subject to a mortgage to the T. & L. Co. for \$2,000, and one to C. for \$500, which the plaintiff covenanted to pay, and save M. harmless therefrom. The plaintiff then conveyed to the defendant in consideration of "\$1,050 and assuming the payment

of the mortgages" aforesaid, the defendant gave back a mortgage for the balance of purchase money. He went into possession and paid some interest on the T. & L. Co. mortgage. Subsequently a new arrangement was made and the defendant's mortgage was discharged, and a mortgage for \$1,850 was given by the defendant to the plaintiff, which included the amount of three promissory notes for \$350 and other items besides the balance of the purchase money. There was no covenant for payment therein. The T. & L. Co. mortgage fell due and was not paid, and the plaintiff paid C.'s mortgage of \$500.

*Held*, that the defendant was bound to pay off the T. & L. Co. mortgage, and relieve the land therefrom, and indemnify the plaintiff against it if personally liable thereon.

## CHANCERY DIVISION.

Boyd, C.]

[June 6.]

MAGURN v. MAGURN.

*Alimony—Foreign divorce—Marriage—Domicil.*

Action for alimony. The defendant was born at Kingston, in 1845. He went to the States in 1862, and travelled about there from place to place till 1868, when he took up his residence in St. Louis till April, 1870. He then began going round the country on the business of his firm, returning to St. Louis at intervals, but not residing there till 1875. In October, 1870, he married the plaintiff at Detroit. He and his wife travelled together for the most part of the interval between that and the close of 1873, when they rented a house at Kingston, and lived there till May, 1875. In 1875 the husband returned to St. Louis, and lived there till April 10, 1876. Then he took his wife to St. Joseph, in Missouri, returning himself to St. Louis. He filed a petition for divorce in the Circuit Court of Missouri, on April 26, 1877, on the ground that his wife had for a year deserted him; the decree for divorce was obtained by default, after personal service on the wife on June 19, 1877. In September, 1877, the defendant married again and went to England, where he lived till September, 1881, when he returned to Toronto. The evidence showed that the plaintiff's residence at St. Louis was in order to comply with the law of Missouri, by which it is necessary that the plain-