more than sufficient to pay the taxes on one half the lot, upon one or other parcel; and that the defendant Groff, by endorsing the draft *as treasurer*, accepted the same on account of the taxes, and should not have sold both portions of the land for the full amount, not crediting the moneys paid by Mr. Brooke at all. (*Laughtenborough* v. *McLean*, 14 U C. C. P. 175) He also objected that the advertisement of sale had not conformed to the statute, in not distinguishing between lands granted in fee by the Crown, and those which were under a lease or license of occupation; and he objected to the admission of Groff's evidence, who was a defendant in the case and liable for the costs.

R. T. Livingstone, for the defendants, opposed the objections taken on behalf of the plaintiffs.

The Chancellor.—As to the first objection, I think the treasurer was warranted in acting as he did, by treating the 100 acre lot as divisible into two parts for taxation purposes. The south quarter of the lot, containing 50 acres, was returned to him in 1860 as the only portion of it "non-resident land." Previously to this, the whole lot had been returned as "non-resident" land. What then was the treasurer to do? Lands, resident and non-resident, are treated by the statute as of different characters. The treasurer accordingly treated the whole 100 acres, theretofore returned as non-resident land, as having changed character, and entered the two parcels separately in his books, apportioning the taxes accrued due between the two parcels, and keeping a separate account with each parcel from that time forward, the taxes thus varying in amount on each parcel. Whether the return to the treasurer of only the one 50 acres as non-resident was or was not correct or a mistake was not contested before me; the treasurer's right to make any sub-division of the lot, although only the one portion of it was non-resident, being alone questioned. But it seems to me that the plaintiff himself admitted the correctness of this sub-division, or waived all objection to it. He was advised of the sub-division by the treasurer, in answer to his own inquiry for the amount of taxes due, and the treasurer showed him the sum charged on each portion. He made no objection to this, but remitted the amount; not, however, until a further charge had accrued on the property, which, though informed of, he neglected to pay, and hence the sale now sought to be impeached. At all events I think, after such conduct, this court will not aid him, whatever his strict legal rights may be, though in my view he has none, in respect of this objection or the case made. The second objection, as to the mode for rating for statute labor, falls with the first objection; for if the sub-division by the treasurer was right, so also was the sum charged on each parcel for statute labor.

In addition to the references to the statutes, mentioned in the argument of Mr. Livingstone, are chapter 80 of the Consolidated Statutes of Upper Canada and section 28 in the schedule E. of the Registry Act of 1865. The statute, ch. 80, is entitled "An Act respecting claims to lands in Upper Canada for which no patents have been issued." Now if a patent issued for a life, or any lesser term, it might be said that the lands affected by it could not be brought under the statute, though the fee was in the Crown, because a patent had issued for or in respect to such land If it be the true construction that "patent" here means a grant of the fee of the whole estate, then the Commissioner of the Crown Lands is to transmit to every treasurer a list of the lands patented or leased, or in respect of which licenses of occupation issued; and section 125 requires the treasurer, in every warrant, to distinguish lands which have been granted in fee from those which are under a lease or license of occupation. Now the treasurer can only get this information from the return furnished by the Commissioner of Crown Lands, who is told to make a return of *lands granted*, not saying in fee. The legislature seems here to treat grants and grants in fee as meaning the same thing; and so they do in the statute relating to the management of the public lands. Free grants, for instance, are grants in fee. I suppose there is no instance of the Crown having granted an estate in tail. No such estate was evidently in the contemplation of the legislature when the words grant and patent were used. A grant to a man for life is a lease to him for that estate, is so called in the books, and is always so expressed—a lease for life. I agree with Mr. Livingstone's argument, that the legislature have distinguished lands patented from lands under lease or license of occupation, either of which interests might be conveyed by the Crown by patent. Indeed a lease would be so made. The legislature had not in their contemplation estates tail granted by the Crown. Leases they have distinguished from lands patented and patents as expressed in the different statutes. I think they intended to mean in the popular sense in which the words patents from the Crown are generally received, as grants in its fullest sense, that is grant in fee, or as covering such grants.

Here the treasurer's warrant and the sheriff's advertisement described the lands offered for sale for arrears of taxes as "all patented."

I think no one was misled by this description, though, as I have had occasion to remark in other cases, it is very annoying that the officers of the law will not use the language given them by the statute.

I must dismiss the bill with costs.

CHANCERY CHAMBERS.

(*Reported by* Mr. Charles Moss, *Student-at-Law.*)

Re Jackes.

***Land belonging to infants—Renewal of lease of*—12 *Vic. cap.* 72—*Imp. Act* 11 *Geo. IV. and* 1 *Wm. IV. cap.* 65, *sec.* 16.**

The Court of Chancery can act, in selling or leasing infants' estates, under the stat. 12 Vic. cap. 72, only when it "is of opinion that a sale, lease, or other disposition of the same, or any part thereof, is necessary or proper for the maintenance or education of the infant, or that by reason of any part of the property being exposed to waste, &c., his interest requires or will be substantially promoted by such disposition."

Upon a petition, styled in the matter of the infant and in the matter of 12 Vic. cap. 72, and 29 Vic. cap. 28, for the sanction of the court to a renewal of a lease made by the infant's ancestor and containing a covenant for renewal, *Held*, that none of the circumstances being alleged under which the court is empowered by the statute to act, the court had no authority to make any order.

***Semble*, the court has authority under Imp. act 11 Geo. IV. and 1 Wm. IV. cap. 65, sec. 16, to sanction such a lease, but the lease must be produced to the court, in order that it may judge of the propriety of its terms.**

[Chambers, January 16, 1867.]