

of the defendant and other property holders interested, under R. S. O. 1887, ch. 184, sec. 612, sub-sec. 9.

The by-law creating the charge was passed before the conveyance to the plaintiff, although the precise sum to be paid by each parcel was not ascertained by apportionment till after the conveyance.

The by-law also contained a provision for commutation at the option of the owner.

*Held*, (affirming the decision of ROBERTSON, J.), that the action of the defendant in joining in the petition, was the means by which an incumbrance was created on the property, and was a breach of the covenants for which the plaintiffs were entitled to recover.

*Held*, also that the plaintiffs were entitled to damages in this action to a sum sufficient to remove the charge.

*Per* BOYD, C.—Different would be the conclusion if the taxes had been imposed by municipal authority without the intervention of the defendant; *Moore v. Hynes*, 22 U. C. R. 107, distinguished. *Cumberland et al v. Kearns*, 151.

#### CREDITORS' RELIEF ACT.

*Entry by sheriff of moneys received under execution* — “*Forthwith*,” meaning of.]—*Held*, that the word “*forthwith*,” contained in sec. 4 of the Creditors’ Relief Act, R. S. O. ch. 65, with reference to the entry by the sheriff of money levied under execution, must receive a strict construction, and means “without any delay.”

Even if equivalent to “within a reasonable time,” a delay of fifteen days after the sale was *held* to be not reasonable. *Maxwell v. Scarfe*, 529.

#### CRIMINAL LAW

1. *Common Pleas Division—Jurisdiction in criminal matters—One or more Judges sitting in absence of others.*]—The jurisdiction to hear motions for orders *nisi* in criminal matters vested in the Common Pleas Division of the High Court of Justice for Ontario, is the original jurisdiction of the Court of Common Pleas prior to Confederation, and by virtue of sec. 5 of C. S. U. C. ch. 10, the Court “may be holden by any one or more of the Judges thereof in the absence of the others.”

On the return of an order *nisi* to quash a conviction, the Court was composed of two of the Judges thereof, the third Judge being absent attending to other pressing judicial work:—

*Held*, that the Court was properly constituted to dispose of the order. *Regina v. Runchy*, 478.

2. *Indictment for murder—Evidence, admissibility of—Statements of deceased after being shot—Complaint—Cross-examination of Crown witness—Particulars of complaint—Res geste—Dying declaration.*]—At the trial of a prisoner upon an indictment for murder, a witness for the Crown swore upon direct examination that deceased lived about thirty rods from him, and that one night, about half an hour after he had heard shots in the direction of deceased’s house, deceased came to the witness’s house, and asked the witness to take him in, for he was shot. The witness did so, and deceased died there some hours afterwards.

Evidence of statements made by deceased after being taken into the witness’s house was rejected.

Upon a case reserved it was con-