

C. P.]

NOTES OF CASES.

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right to convey certain lands to the plaintiff, the defendant pleaded on equitable grounds that the real contract between the said J. McK., the plaintiff, was that the said J. McK. should execute a deed under the Act respecting Short Forms of Conveyances, and containing covenants against his own acts only, but by mistake the document was made general, and asked that the deed might be reformed.

Held, that upon the evidence set out in the case, the plea was proved, and the deed was accordingly directed to be reformed.

McBeth, for the plaintiff.

R. M. Meredith, for the defendant.

PARSONS, qui tam v. CRABB.

Magistrate—Costs—Overcharge—Liability.

A magistrate, acting under 32 & 33 Vict. c. 20, sec. 37 D., convicted some four persons for disturbing an assemblage of persons, &c., but instead of imposing the costs, which would appear to be about \$9.25, on all the defendants, he separately imposed a fine of \$6.00 on each defendant.

Held, under the circumstances, there was a wilful overcharge, and the magistrate was liable to the penalty imposed in such cases.

Bethune, Q. C., for the plaintiff.

Ferguson, Q. C., for the defendant.

MOLSON'S BANK v. CORPORATION OF BROCKVILLE.

Municipal corporations—Fraudulent act of officer—Benefit to corporation—Liability.

On the 28th August, 1879, the defendant's bank account at the Bank of Montreal was overdrawn to the extent of \$1157 64, and a resolution of the council was thereupon passed, authorizing the mayor and town clerk to borrow from some banking institution a sum not exceeding \$2,000, to meet the current liabilities until the taxes were available, and to sign the necessary documents and affix the corporate seal. The resolution appeared in the town newspapers. On 2nd September, a promissory note for \$2,000, in accordance with the terms of the resolution was made and discounted at the

Bank of Montreal, and the proceeds placed to the defendants' credit. On the 5th September, a similar note was made and discounted at the plaintiff's bank, where the defendants had kept an account, but which was virtually discontinued, but there was a small balance remaining to the defendants' credit. The last note was, in fact, fraudulently procured, to be made and discounted by one T., who was the clerk and treasurer of the defendants, and who was a defaulter, and as such treasurer he chequed out some \$1,656 of this money, which he deposited to the credit of the defendants, at the Bank of Montreal, and the defendants derived the benefit thereof.

Held, that the defendants were liable to the plaintiffs for the \$1,656, for that T. had acted within the scope of his authority, and defendants derived the benefit thereof.

Britton, Q. C., and *Wood*, for the plaintiffs.

Richards, Q. C., and *Fraser*, for the defendants.

WATTS v. ATLANTIC MUTUAL LIFE INS. CO.

Insurance—Equitable non-forfeiture system—Promissory note.

Action on a life insurance policy for \$1,000, on the joint lives of the plaintiff and his wife, on what is called the equitable non-forfeitable system, whereby, if after the payment of one or more annual premiums, the policies were allowed to lapse, the insurance was continued in force for the period which the equitable value of the policy at the time of lapse would purchase. The policy was effected on the 13th April, 1869, and the quarterly payments of cash premiums were made up to the 13th October, 1873, being a period of four years and nine months, so that under the defendants' tables the equitable value of the policy was such as to continue it in force for three years and 318 days, during which period the death of one of the insured, the wife, occurred. After the plaintiff had ceased to make the said cash payments, the defendants' agent, of his own authority, made an arrangement with the plaintiff whereby the plaintiff, on 28th January, 1875, gave a so-called promissory