

*Held*, following *Barber v. Maughan*, 42 U.C.R. 134, that this might be read as part of the statement, and being so read shewed the statement to be that of the mortgagee, which was all that the statute required: R.S.O. 1897, c. 148, s. 18.

The statement of payments made in 1896 and 1897 did not set forth in detail the date and amount of each payment made, but only the total sum, thus: "Cash received from July of 1896 to June of 1897, \$30 per month, making in all \$330." The statement set forth that these sums were those which had been paid upon account of the interest upon the mortgage, and "that no payments have been made upon the said mortgage." This was followed by a cash statement in this form:—

1896		
June	Principal money	\$5,000
	Interest for 1 year, 7 per cent.	350
		<hr/>
		\$5, 350
1897		
June	Less cash for interest paid as above	330
		<hr/>
		\$5,020

And this was the amount sworn to as being unpaid.

*Held*, that the meaning was clear—the intention being to state that no payments on principal had been made; and the requirements of the statute had been sufficiently complied with.

*W. E. Middleton*, for appellant. No one appeared for respondent.

Meredith, C.J.]

[Jan. 2.

CITY OF OTTAWA v. OTTAWA STREET RAILWAY COMPANY.

*Street Railways—Contract to construct—Prevention by effect of legislation—Unlawful occupation—Duty of Municipality—Bond—Substitution agreement—Discharge of obligation.*

Specific performance of an agreement by a street railway company with a municipal corporation to construct, equip and operate a line of rails along certain streets in the municipality, cannot be enforced, nor can damages be awarded for non-performance of the contract, if the construction of the street railway has been rendered impossible through the action of the railway committee, the privy council refusing to sanction a crossing, or by reason of the occupation of the street by another railway company, whether with or without lawful authority; the duty of the municipality in the case of unlawful occupation being to restore the street to a condition to permit of the construction.

When the obligor in a bond agrees, if required by the obligee, to perform certain work, and subsequently by agreement between the successors in law of the obligor and the obligee, an absolute obligation to do