

A rejoinder alleged that A. was induced to enter into the said bond for said W. at a fixed salary, and believing such representation to be true he executed said bond, and the change in the plea set out was without his authority or consent.

Semble, rejoinder good; that it was necessary to state that the said representation was made by plaintiffs, for under the rejoinder plaintiffs would have to prove that the representation was so made as to be binding on plaintiffs.

Bethune, Q.C., for plaintiff.

G. D. Dickson, for defendant.

Osler, J.] [October 3.
OTTAWA AGRICULTURAL INSURANCE CO.
v. CANADA GUARANTEE CO.

Guarantee policy—Default in payment of moneys—Representation as to prior default—Meaning of—Pleading.

To an action on a guarantee policy for the due performance of one B's duties as secretary of plaintiffs' company, alleging a default in paying over certain moneys of plaintiffs, received by him, the defendant pleaded, setting up in substance a misrepresentation of plaintiffs, in stating that B had never been in arrear or in default in his accounts, yet that he had previously to the making of said representation been in arrear and in default, namely, while in the employment of one B.

Held, by OSLER, J., plea good: that the proper construction of the contract alleged in the declaration was that the representation was not necessarily restricted to a default made while in plaintiff's service, but would include one made in any prior service, and that the extent of the representation might be proved at the trial.

J. K. Kerr, Q.C., for plaintiff.

H. J. Scott, for defendant.

CHANCERY.

Blake, V. C.] [Oct. 13.
WILSON v. CAMPBELL.

Mortgage—Construction of—Interest.

This was a mortgage suit, and there being subsequent encumbrancers, a reference was directed to the Master. The proviso in the

mortgage was as follows:—Provided this mortgage to be void on payment of the sum of \$2,000 (in gold), of lawful money of Canada, together with interest thereon, at the rate of 8 per cent. per annum, as follows:—The said principal sum of \$2,000 at the expiration of five years, from the date hereof, viz., April 16th, 1877, and the interest thereon at the rate aforesaid; in the mean time, half-yearly, on the 16th days of the months of October and April, in each and every year of the said term of five years; the first payment of interest to be made on the 16th day of October next, 1872, and also upon payment of interest, and after the rate aforesaid, upon all such interest money as shall be permitted or suffered to be in arrears, and unpaid after any of those days and times hereinbefore limited and appointed for payment thereof.

A subsequent encumbrancer appealed from the report made by the Master.

1. Because the Master in taking the plaintiff's account, allowed them compound interest upon interest in 'arrear with rests, instead of allowing simple interest upon the interest in arrear.

2. Because the Master allowed the plaintiffs interest upon interest, subsequent to the time when the principal money secured by their mortgage fell due.

Appeal allowed on both grounds.

T. Langton, for the appellant.

J. C. Hamilton, contra.

Proudfoot, V.C.] [Nov. 11.

MACLENNAN v. M'LEAN.

Mortgage—Mortgagee and mortgagor—Discharge of mortgage.

A mortgagor or other party entitled to the equity of redemption has a right to obtain at his own expense from the mortgagee a release of the mortgage, including a covenant against incumbrances. He is not obliged to accept the simple discharge of mortgage prescribed by the statute.

The purchaser of a mortgaged estate paid the amount due on the mortgage to the mortgagee, who executed a statutory discharge of the incumbrance, which recited that the money due upon the mortgage had