

was made in September, 1879. C. was absent from the province when the mortgage and bond were given and did not return until 1880. Plaintiffs as executors of C. brought two actions, (1) to foreclose the mortgage and to recover the amount secured by the mortgage and bond, and (2) to obtain possession of the land. The only defence set up to both actions was that of the statute of limitations.

Under one of the clauses of the mortgage the mortgagee was empowered to make payment of insurance premiums, in default of payment by the mortgagor, and "to charge such payments with interest at the rate aforesaid upon the mortgaged premises," but there was no provision in terms making the advance a part of the principal sum secured by the mortgage.

*Held*, 1. The effect of the provision was merely to make the advance a lien upon the land for its payment with interest, and was only in the nature of a further charge or additional mortgage.

2. The repayment by the mortgagor of the amount advanced was not such a payment on account of the principal sum secured as would take the case out of the statute of limitations.

3. An entry in the books of the solicitor for the mortgagee shewing the payment of the amount advanced for insurance and the subsequent repayment of the amount was not sufficient evidence of an advance by and repayment to the mortgagee, such entries being consistent with the view that the solicitor advanced the money on his own account on the credit of the mortgagor.

4. Renewal receipts for premiums of insurance, taken in connection with a clause in the policy making the loss if any payable to the mortgagee were not acknowledgments in writing within section 21 of the statute.

*Held*, also, following *Sutton v. Sutton*, 22 Ch. D. 511, and *Steward v. England* (1895) 2 Ch. 820, that the limitation imposed by s. 21 of the Act applied as well to the remedy on the bond as to that under the mortgage against the land.

*G. Ritchie*, for appellant. *A. E. Silver*, for respondent.

Full Court.]

THE KING *v.* CLEMENTS.

[April 27.

*Liquor License Act of 1895—Compelling attendance of witness—Payment of fees—Judgment of stipendiary magistrate as to—Not renewable on habeas corpus.*

On a prosecution before the stipendiary magistrate of the City of Halifax for a violation of the Liquor License Act, 1895, service was proved of a summons on M., who it was claimed was a material witness for defendant, but without tendering witness fees, and an application was made to the magistrate for a warrant to compel the attendance of the witness, the fees being at the same time tendered to the magistrate. The application was refused on the sole ground that fees were not tendered in