

upon the stoppage. The judge at the trial gave judgment for the plaintiff and the Divisional Court (Lord Alverstone, C.J., and Kennedy and Ridley, JJ.) affirmed his decision, holding that though the gutter in question was not demised, and there was no implied covenant to keep it in repair, yet that the landlord in maintaining a gutter and not keeping it in proper repair was guilty of a breach of duty, for which he was liable to persons injured thereby.

PRACTICE—FORECLOSURE—SUBSEQUENT CONCURRENT ACTION ON COVENANT—STAY OF PROCEEDINGS—MORTGAGE ACTION.

In *Williams v. Hunt* (1905) 1 K.B. 512 the Court of Appeal (Collins, M.R., and Stirling, L.J.) have decided that where a mortgagee commences an action for foreclosure, and then commences a concurrent action on the covenant for payment in the mortgage, in order to obtain a speedy judgment as on a specially indorsed writ, the second action must be stayed and the plaintiff left to pursue all his remedies in the foreclosure action.

LANDS TAKEN FOR PUBLIC DEFENCE—COMPENSATION.

In *Blundell v. The King* (1905) 1 K.B. 516 lands were expropriated for the purpose of public defence in order to construct a fort, a petition of right for compensation was filed, and Ridley, J., who tried it, held that the owner was entitled to compensation for injurious affection of his adjoining lands arising from the natural and ordinary use of the lands as a fort and the firing of guns placed therein.

MUNICIPAL BY-LAW—EVIDENCE—MUNICIPAL CORPORATIONS ACT, 1882 (45 & 46 VICT. c. 50) s. 24 (THE MUNICIPAL ACT, 3 EDW. VII. c. 19, s. 333, ONT.).

*Robinson v. Gregory* (1905) 1 K.B. 534 was a summary proceeding to recover a penalty for breach of a municipal by-law. In support of the plaintiff's case a copy of the by-law under the corporate seal was produced. By the Municipal Corporations Act, s. 24 (and see the Municipal Act, 3 Edw. VII. c. 19, s. 33), such copy is, until the contrary is proved, "sufficient evidence of the due making and existence of the by-law." On the hearing of the case the defendant contended that the production of the copy was no evidence of its due publication and the justices refused to convict. The Divisional Court (Lord Alverstone, C.J., and Kennedy and Ridley, JJ.) held that they were wrong, and that in the absence of any evidence to the contrary, the copy produced