

Chan. Div.]

NOTES OF CANADIAN CASES.

[Chan. Div.]

was entitled to receive the fund and hold it in trust. During his life, his wife would be entitled to the whole benefit arising from the fund, and on his death there would be a distribution of it amongst his wife or her representatives, as the case might be, and those persons who would answer the description of heirs of M. R. B., and M. R. B. as such trustee was entitled to receive, and could give a good acquittance and discharge for the money.

*Held*, lastly, that under the will in question, the widow was not put to her election.

*Smith*, Q.C., for the plaintiffs.

*McKenzie*, Q.C., for the adult defendants, other than the widow.

*J. Hoskin*, Q.C., for the infant defendants.

*A. Hoskin*, Q.C., for the widow.

Ferguson, J.]

[June 13]

BRYSON V. THE ONTARIO & QUEBEC RAILWAY COMPANY.

*Contract—Improvvidence—Married woman—Concurrence of husband—R. S. O. c. 125, s. 19—40 Vic. c. 7.*

Where a railway company contracted for the purchase of certain land with B., a married woman, in the absence of her husband.

*Held*, that the railway company were not under any obligation to see that she had independent advice in the matter; and inasmuch as the price appeared not to be grossly inadequate, and B. appeared to be fully *compos mentis*, and no unfair advantage having been taken of her, the agreement could not be set aside.

B.'s marriage took place in 1876, and the land was held by her to her separate use.

*Held*, that the concurrence of her husband in the contract was unnecessary, nor was it necessary for him to join in the conveyance.

The real estate of a married woman after March 2nd, 1872, whether owned by her at the time of her marriage, or acquired in any manner during her coverture, may be conveyed by her without the concurrence of her husband; and her contracts respecting such real estate are binding upon her.

*C. Moss*, Q.C., and *Dumble*, for the plaintiffs.

*Blackstock*, for the defendants.

Ferguson, J.]

[June 23.]

MCCARTHY V. COOPER.

*Contract—Incomplete conveyance—Statute of Frauds—Specific performance.*

Action for the specific performance of an alleged contract for the sale of land.

It appeared that one W., whom C., the purchaser, supposed to be the owner of the land, but who was really only the agent of the owner, the present plaintiff, signed and sealed a conveyance of the land to the purchaser, similar to the ordinary short form of conveyance. This was also signed and sealed by C. There was no other note or memorandum of the alleged contract within the Statute of Frauds as would bind C. The deed acknowledged the receipt and payment of the purchase money, though the evidence showed it was not paid, but that only a deposit of ten per cent. was paid by C. It did not appear that the deed had ever been delivered.

*Held*, that the deed in question, though incomplete as a conveyance, yet was evidence of a contract of sale by the plaintiff, whose authorized agent, W., was shown to have been to C., sufficient to satisfy the Statute of Frauds, and the plaintiff was entitled to judgment.

*Blackstock*, for the plaintiff.

*Black*, for the defendant Cooper.

*Murray*, for the defendant Oliver.

Ferguson, J.]

THE PHENIX INSURANCE CO. V. CORPORATION OF KINGSTON.

*Municipal law—Taxation of income of foreign corporation—Insurance—43 Vict. c. 27.*

Action to recover the amount of certain taxes paid under protest to the Corporation of Kingston.

The plaintiff's company is a foreign corporation, with its head office in London, England, but carrying on the business of Fire Insurance in Canada, with an agency office at Kingston, Ontario, and head-office for Canada in Montreal. The question was whether the insurance premiums received at Kingston by the agent of the company there, for insurance business transacted through him as such agent, were assessable at Kingston as taxable income or personal property against the com-