

## SUPREME COURT.

DAVIE, C.J.]

[Feb. 24.]

MAJOR *v.* MCCRANEY.*Bond to cover misappropriated funds—Stifling prosecution—Defence.*

In 1895, McCraney, as manager of Major & Pearson's office in Vancouver, was arrested on a charge of fraudulently appropriating trust property to his own use. He was given a preliminary hearing in the District Court, and sent up for trial at the Fall Assizes. Pending the trial McCraney's friends came to the rescue, and entered into a bond or agreement to make restitution, etc., and the prosecution was to use its best endeavors to have proceedings stayed. Accordingly, when the case was called at the assizes, the Crown Attorney, with the consent of the presiding judge, withdrew the case, as, in his opinion at that time, there was not sufficient evidence to convict. Subsequently the defendant's bondsmen or trustees, of whom there were fourteen, made two payments, according to the agreement, and then refused to pay any more; hence this action. The defendant claimed that the said agreement was void in law, having been made in consideration of stifling a criminal prosecution.

*Held*, that 20 & 21 Vict., c. 54, s. 13 (Imp.), applied, and that the defendants were liable on their bond.

*McPhillips*, Q.C., and *Corbould*, Q.C., for plaintiff.

*Wilson*, Q.C., and *Davis*, Q.C., for defendants.

MCCREIGHT, J.]

[Feb. 25.]

PARKS *v.* BISHOP OF NEW WESTMINSTER.*Mortgage—Short form—Corporation sole—Right to bind successors.*

This was an action brought by the plaintiff against the present Bishop of New Westminster to recover \$350 and interest, alleged to be due on a covenant contained in a mortgage made by the late Bishop Sillitoe to plaintiff, of the parsonage house and premises at Lansdowne.

The mortgage was made on a "short form," under the Short Form of Mortgage Act.

*Held*, (1) That the covenant could not bind the defendant's successors on account of the form; and (2) that even if the covenant should be held to be in form sufficient to bind successors, a corporation sole cannot by law bind its successors on a personal obligation.

*Reid*, for plaintiff.

*Grey*, for defendant.

MCCREIGHT, J.]

[Feb. 27.]

WHARTON *v.* MISSION CITY CORPORATION.*Municipal law—Expropriation of lands for roads—Exception.*

This was an action brought under the Municipal Act of 1892, s. 266, which says that no expropriation of land for the purpose of making roads, etc., shall be made as to lands on which any building may have been erected, or which may be in use as gardens or otherwise, for the more convenient occu-