

deed the purchaser handed it to the defendants' agent, who then registered it, the plaintiff's mortgage having in the meantime been also registered. The plaintiff and the defendant acted in good faith, and each without knowledge or notice of the other's mortgage.

*Held*, that the Registry Act did not apply; that the defendant's mortgage was valid only by estoppel, and was fed by estoppel to the extent only of the interest taken by the purchaser under the deed; that that interest was subject to the claim of the plaintiff for the balance of purchase money, and that the plaintiff's mortgage was therefore entitled to priority. *Nevitt v. McMurray*, 14 A.R. 126, applied. Judgment of ROSE, J., reversed.

*E. H. Tiffany*, for appellant. *A. C. Macdonell*, for respondent.

From Robertson, J.]

WARD v. WILBUR.

[May 5.]

*Vendor's lien—Performance of agreement.*

A lien in the nature of a vendor's lien arises whenever land is conveyed in consideration of acts to be done by the grantee; the right is not limited to cases of conveyance for a money consideration. Where therefore upon the partition of a piece of land, held by tenants in common, one grantee, as part of the consideration for his grant, covenanted to obtain for the other tenants in common a release of the contingent interest of two persons in the land conveyed to them, it was held that a lien attached upon the portion conveyed to him for the due performance of this covenant. Judgment of ROBERTSON, J., affirmed.

*J. M. Glenn and W. Gundy*, for appellants. *J. A. Robinson*, for respondent.

From Ferguson, J.] RAINVILLE v. GRAND TRUNK R. W. CO.

[May 5.]

*Railway—Fire—Negligence—Cutting down weeds.*

A railway company is responsible for damages caused by fire which is started by sparks from one of their engines in dead grass and shrubs allowed by them to accumulate in the usual course of nature from year to year on their land adjoining the railway track. It is the company's duty in such a case to remove the dangerous accumulation. Judgment of FERGUSON, J., affirmed. (See 33 C.L.J. 691.)

*Oster*, Q.C., for appellants. *M. K. Cowan* for respondent.

From Falconbridge, I.]

[May 5.]

POWELL v. TORONTO, HAMILTON AND BUFFALO R. W. CO.

*Railways—Lands injuriously affected—Operation of the railway—Dominion Railway Act, 51 Vict., c. 29.*

Under the Dominion Railway Act, 51 Vict., c. 29, compensation recoverable in respect of lands injuriously affected must be based on injury or damage to the land itself and not on personal inconvenience or discomfort to the owner or occupant, and no compensation can be allowed to the owner of land fronting on a street along which a railway company lawfully constructed its line of railway, there being no interference with access to the land except so