

as shewn on the plans and books of reference, or of alterations thereof; but even within one mile from the said line no deviation shall be permitted, except in such instances, as are provided for in the special Act, and where, as in this case, the special Acts relating to a railway make no provision for deviation, they have no right to expropriate lands not shown on their said plans and books of reference, even though within one mile from their line, as shewn on the said plans and books of reference.

Black, for the plaintiff.

A. F. Cattanaeh, for the defendants.

Rose, J.]

[May 14.

MACDONALD V. ELLIOT.

Mortgage:—Action on covenant—Statute of limitations.

Action on covenant in a mortgage dated October 13th, 1866; writ issued February 17th, 1886. Plea that plaintiff's cause of action was barred by Statute of Limitations, no interest on the principal money secured having been paid at any time.

Held, that the plaintiff was entitled to judgment: *Allen v. McTavish*, 2 A. R. 278, followed in preference to *Sutton v. Sutton*, 22 Ch. D. 511, and *Pearnside v. Flint*, *ib.* 579.

The covenant provided for payment of interest at nine per cent. up to the end of the year from the date of the mortgage.

Held, there being no evidence why such rate of interest was provided for, and it being matter of common knowledge that nine per cent. was not considered excessive for advances in the year 1866, and some following years, the same rate of interest should be allowed for the years subsequent to the expiry of the first year.

J. B. Jackson, for the plaintiff.

T. B. Blackstock, and *M. Walsh*, for the defendant.

FLOTSAM AND JETSAM.

RULED OUT AT LAST.—General Nye had cross-examined a witness at great length before a presiding judge who was peevish and irritable as well as rather dull, and he had frequently put the same questions, which the judge had ruled against as improper. At last the patience of the judge was exhausted, and he petulantly asked: "General Nye, what do you think I am sitting here for?" Nye looked up at the bench, and, with grave countenance, answered: "You have got me this time, your honour."—*Washington Law Reporter*.

LICENSE OF THE BENCH.—The great case of *Hawkins, J., v. Cock*, which agitated the bar last week, has ended in a decision of the Divisional Court in favour of the defendant. "Mr. Cock," said Mr. Justice Grove, "was not to blame;" and Mr. Justice Stephen went further, and remarked that "Mr. Cock had done nothing to be ashamed of," and when he declined to go on with the case "only showed a proper regard for his own dignity." These are unpleasant remarks for Mr. Justice Hawkins, and the frank expression of judicial censure on a brother judge is probably unprecedented; but so also it may be hoped was the conduct which called it forth. When the judge, after his list had broken down at eleven o'clock in the morning, refused to wait a few minutes for counsel who was actually engaged in speaking in a neighbouring court, he showed most singular petulance, and he does not appear to have retrieved his dignity by the mode in which the trial was subsequently conducted. Good temper and patience are judicial attributes not too common in the present day, and Mr. Cock deserves the thanks of the profession for the lesson he has afforded, that there is a limit to the license of the bench.—*Solicitors' Journal*.

SATISFACTION, in which we largely share, is universally expressed at the honour of knighthood conferred upon the ex-Chief Justice of the Superior Court of Quebec. It is just five years since we ventured to suggest the fitness of such a distinction (4 Leg. News, 169). Three years later the General