

Chan.]

NOTES OF CASES.

[Chan.]

CHANCERY

Spragge C.]

[Jan. 12]

HAMILTON PROVIDENT AND LOAN SOCIETY V.
BELL.*Principal and agent—Valuer of land—Liability
of for loss.*

The paid agent of a loaning Society, who professed to be skilled, and had a knowledge in the valuing of lands, was held liable to the Society a loss sustained by them by reason of a false report of such agent.

Silverthorne v. Hunter, 5 App. R., 157 distinguished.

Muir, for plaintiffs.

Spragge, C.]

[Jan. 12]

IRWIN V. YOUNG.

Voluntary deed—Independent advice—Costs.

Where it was shewn that a voluntary deed had been executed without independent advice, where the grantor stood in such a relation to the grantee, as that he was likely to be under his influence, the Court, [SPRAGGE C.,] owing to the peculiar relationship of the parties, set the conveyance aside, although no fraud or moral wrong could be imputed to the grantee; and although it was probable, from all the circumstances of the case, that if the contents and legal effect of the instrument had been fully explained to the grantor by an independent legal adviser, the grantor would still have executed the deed though probably with some modifications in the details. The relief was granted without costs, however, as no case of actual fraud was established, in this following *Lavin v. Lavin* 27 Gr. 567.

Boyd, Q.C., and *Robertson*, Q.C., for plaintiff.

Osler, Q.C., and *Lazier* for defendants.

Bruce, for infants.

Spragge C.]

[Feb. 2.]

BANK OF TORONTO V. IRWIN.

*Re-formation of mortgage—Fraudulent
conveyance.*

A mortgage had been executed by defendant I. reciting that it had been agreed to be given to secure notes held by the plaintiff, and con-

taining covenants for title, was reformed by substituting for one of the parcels inserted by mistake, which did not belong to I. another lot proved to be his at the time of creating the mortgage; and being the only lot owned by him.

After the creation of the mortgage, M. purchased from I. the substituted lot at an absurdly inadequate price, and the sale being otherwise attended with suspicion, was set aside as fraudulent under the statute of Elizabeth.

A writ was in the hands of the sheriff at the suit of the plaintiff against I., at the time of the dismissal of a bill filed by I. to redeem the plaintiff, and at the time of the sale to M., which dismissal had under the circumstances the effect of a decree of foreclosure against I.

Held, notwithstanding, that the plaintiffs might proceed to recover their debt against I., they being in a position to reconvey the mortgaged premises.

Spragge C.]

[Feb. 2.]

CHAMBERLAIN V. SOVARS.

*Judgment creditor—Mortgagor and mortgagee—
Principal and surety.*

A judgment creditor with execution in the hands of the sheriff against the lands of the defendant S., which lands were subject to a mortgage to L., whose executors were defendants in a suit to redeem. At the hearing the Court [SPRAGGE C.] declared the plaintiff entitled to the same relief as upon a bill by a *puisne* incumbrancer against a prior mortgagee and the mortgagor; and that notwithstanding R.S.O. chap. 49, sec. 5, inasmuch as he could not establish his right in the County Court in which he had recovered his judgment, so as to obtain as effectual a remedy as that sought in the redemption suit, he might resort to equity to obtain relief.

The executors of B. were also liable upon the judgment recovered by the plaintiff, and by their answer set up that they were liable only as sureties for the defendant S. All parties interested were represented in the suit, and no one objecting thereto, a reference was granted at the instance of B.'s executors, in order that they might establish the fact of suretyship, in which case they would be entitled to the same relief as was granted in *Campbell v. Robinson*, 27 Gr. 634.