

Held, affirming the decision of STREET, J., that the mortgagor does not represent his mortgagee, and is not included in enumeration of the corporations or persons who, under s. 13 of R.S.O., c. 170, are enabled to sell or convey lands to the company. He can only deal with his own equity of redemption; and therefore the mortgagees were entitled to the mandamus as asked for.

L. McCarthy for the Railway Company.

Goodwin Gibson for the Loan Company.

BOYD, C.]

[Jan. 24.

RE OTTAWA MUNICIPAL ELECTION.

Mandamus—County judge—Recount of ballot papers—55 Vict., c. 42, ss. 155 and 175 (O.).

A mandamus will not be granted to compel a County Judge to proceed with a recount when the ballot papers cast at a municipal election were found not sealed up as provided by section 155 of 55 Vict., c. 42 (O.).

In re Centre Wellington Election, 44 U.C.R. 132, referred to.

Held, also, that the provisions of section 175 of the Act were not applicable.

Ferguson, Q.C., and *Stuart Henderson* for one applicant.

M. J. Gorman, *contra*.

Chrysler, Q.C., for another applicant.

William Wyld, *contra*.

Common Pleas Division.

Div'l Court.]

REGINA v. PLOWS.

[March 2.

Provincial fisheries—Justice of the peace — Jurisdiction — Prosecution for penalty exceeding \$30—55 Vict., c. 10, ss. 19, 25, 26.

The defendant was convicted before one justice of the peace on an information charging him with fishing in a certain stream without the permission of the proprietors, and taking therefrom forty-five fish.

The defendant admitted the fishing, but denied the taking of the forty-five fish, and was convicted of the former.

Held, that inasmuch as under s. 19 the penalty for the offence charged in the information exceeded \$30, and inasmuch as s. 26, read in connection with s. 25, requires that prosecutions under the Act, where the penalty exceeds \$30, must be tried before a stipendiary or police magistrate, or two or more justices of the peace, or one justice and a fishery overseer, the conviction must be quashed.

Aylesworth, Q.C., for the motion.

DuVernet, *contra*.