

MORTGAGE—Continued.

or bills of exchange (and interest upon the same) then due and payable." *Held*, that interest was made chargeable upon the overdrawn account. **BANK OF MONTREAL v. DUNLOP**388

3. — *Payment—Authority of Solicitor of Mortgage to Receive Mortgage Debt—Fraud.* Land subject to mortgage to secure a loan arranged through the mortgagee's solicitor was purchased by the plaintiff. On the death of the mortgagee certain monies of her estate were left by her administrator with the solicitor for investment, and the solicitor opened up in his books an account with the estate. The solicitor, without the knowledge or authority of the administrator, required the plaintiff to pay off the mortgage. To raise the money the plaintiff gave a mortgage to one J., who paid the money to the solicitor, and he credited the payment of the mortgage in the accounts of the estate in his books. The money was never paid or accounted for to the administrator. Some months afterwards he instructed the solicitor to get in the mortgage. The solicitor died insolvent. *Held*, that the relation of solicitor and client between the administrator and the solicitor did not authorize the latter to receive payment of the mortgage; that an express authority for the purpose, or an authority implied from a course of dealing between the parties, neither of which existed here, was necessary; that the subsequent authority did not operate as a ratification of the payment; and that the plaintiff must bear the loss. **FOREMAN v. SEELEY**341

— *Debentures—Mortgage—Foreclosure suit—Company—Winding-up—Receiver—Liquidator—Displacing receiver by liquidator—Order appointing receiver—Order varied, and limited to property conveyed by security.*328
See COMPANY, 2.

NEXT FRIEND—Married woman—Suit relating to separate estate. . . .51
See PARTIES, 2.

NOTICE—Priorities—Deed—Competing purchasers—Registry Act, 57 Vict., c. 20, ss. 29, 69—Unregistered deed—Sale of part of land—Subsequent registered mortgage of remainder of lot—Reference in description to previous conveyance—Subsequent deed of whole lot159
See REGISTRY LAWS, 1.

NOTICE—Continued.

—Priorities—Quit claim deed—Competing purchasers—Registry Act, 57 Vict., c. 20187
See REGISTRY LAWS, 2.

PARTIES—Fraudulent Conveyance—Suit to Set aside—13 Eliz., c. 5—Administration Suit—Joinder of Administrator—Appointment by Court of Person to Represent Deceased Debtor's Estate—Act 53 Vict., c. 4, s. 89—Demurrer for Want of Parties—Act 53 Vict., c. 4, s. 54.] In a suit by simple contract creditors of an intestate to set aside as fraudulent under the Stat. 13 Eliz., c. 5, a conveyance by him of real estate, and for the administration by the Court of his estate, an administrator of the intestate's estate appointed by the Probate Court is a necessary party to the suit, though there are no personal assets of the intestate. The failure to make the administrator a party to such a suit is not a ground of demurrer, but may be taken advantage of under Act 53 Vict., c. 4, s. 54. The Court will not, in such a suit, appoint a person under Act 53 Vict., c. 4, s. 89, to represent the estate of the intestate, instead of requiring the administrator of the intestate's estate to be made a party to the suit. **TRITES v. HUMPHREYS1**

2. — *Married Woman—Suit Relating to Separate Estate—Joinder of Husband as Co-plaintiff—Next Friend—Suit in Wife's Name—The Married Women's Property Act, 58 Vict., c. 24.] Husband and wife should not be joined as co-plaintiffs in a suit relating to the wife's separate property. The suit should be in the name of the wife's next friend, or, since The Married Women's Property Act, 58 Vict., c. 24, it may be in the wife's name. **CRONKITE v. MILLER**51*

PARTITION—Practice—Proof of Unsoundness of Mind of Defendant by Affidavit—Costs—Act 53 Vict., c. 4, s. 89.] Unsoundness of mind of defendant in a partition suit, proved by affidavits under Supreme Court in Equity Act 53 Vict., c. 4, s. 80. Application refused in a partition suit, that costs of appointing guardian *ad litem* of defendant, a person of unsound mind, not so found, and of proving her unsoundness of mind by affidavits, be borne by defendant's share in estate. **MASTERS v. MASTERS486**

PARTNERSHIP—Agreement—Construction—Losses—Contribution inter se.] By an agreement between plaintiffs and defendant it was provided that the defendant, who was carrying on the business of manufacturing wire fencing, should furnish machines, in which he