

Chan. Div.]

NOTES OF CASES.

[Cham.

person assessed, and that subject to the right of the Crown to grant the fee simple to whomsoever may be found entitled thereto.

A person in possession of land under a mistake of title, cannot be allowed for improvements made by him after litigation commenced with him concerning the title.

MacLennan, Q.C., for plaintiff.

Beatty, Q.C. and *Lees*, Q.C., for defendant.

FLETCHER V. RODDEN.

Mortgage—Foreclosure—Recovery of land—Statute of limitation.

The remedy by way of foreclosure or sale in mortgage suits, is a proceeding to recover lands within the meaning of R. S. O. cap. 108, sec. 4.

Therefore, when a suit to foreclose a mortgage was commenced ten years and eight months after the date of the default in payment, and the plaintiff claimed payment of the mortgage debts, possession and foreclosure,

Held, that the only relief to which the plaintiff was entitled, was judgment upon the covenant for payment.

C. H. Ritchie, for plaintiff.

Moss, Q.C., for defendant.

MCDOWALL V. PHIPPEN.

Mortgage sale—Growing crops, purchaser's right to.

Upon default made in payment of a mortgage, the mortgagee has the unquestionable right to take possession of the property in the state in which it then is as to crops, and to hold the whole as his security.

Therefore, where land was sold under a decree of the Court of Chancery made in a mortgage suit without any reservation of crops,

Held, that the purchaser took all that the mortgagee could beneficially hold possession of, and was entitled to the growing crops mature and immature, no severance of the same having taken place.

P. McGregor, for plaintiff.

Moss, Q.C., for defendant.

CHAMBERS.

Mr. Dalton, Q.C.]

[Feb. 2.

CORNISH V. MANNING.

Time, computation of—Execution—Summons.

A defendant was served on the 22nd December, and a *fi. fa.* was issued on the 10th January.

Held, that the *fi. fa.* was not issued too soon, and might have been issued on the 9th January.

Held also, that in the computation of time in this case Sunday counts.

The ten days for appearance mentioned in the writ of summons includes the day of service.

Holman for plaintiff.

H. J. Scott for defendant.

Osler, J.]

IN RE ELLIOTT.

Solicitor—Taxation—Costs.

Where an order has been made referring a solicitor's bill for taxation, and directing the attorney to refund what, if any thing, has been over paid, it is proper to obtain a subsequent express order for payment of the balance found due by the Master's report.

Aylesworth for the solicitor.

Shepley for the client.

Mr. Dalton, Q. C.]

[March 25.

OMNIUM SECURITIES CO. V. ELLIS.

Pleadings—Notices, service of.

Held, that pleadings and notices in suits in all cases must, in the absence of special arrangements, be served either upon the solicitors for the parties or their Toronto agents.

Aylesworth for the defendant.

H. Cassels for the plaintiffs.

COURT OF APPEAL.

From Chy.]

[March 24.

JESSUP V. GRAND TRUNK RAILWAY.

Deed poll—Specific performance—Land acquired by railway on special condition.

The facts of this case are fully set out in 28 Grant, p. 583.

On appeal, the plaintiff's bill was dismissed with costs. The Court holding that the bargain