

Ct. Appeal.]

NOTES OF CANADIAN CASES.

[Ct. Appeal.]

It appeared that the mortgagees took proceedings for sale, and one H. bought under the decree, and was declared the purchaser by the report on sale. The mortgagor was in reality the purchaser, having procured H. to bid at the sale.

Per SPRAGGE, C. J. O.—The sale to the mortgagee was a fraud upon the plaintiffs, and they had not disintituled themselves to relief by delay.

Per BURTON, J. A.—An action to redeem a mortgage is not an action to recover land, within the meaning of the Real Property Limitation Act.

Street, Q.C., for the appellant.

Cassels, Q.C., for the respondent.

VICTORIA MUTUAL INSURANCE COMPANY v. THOMPSON.

Mutual Insurance Company—Assessment illegal in part—Notice.

The directors of the plaintiffs' company assessed the defendant, a policy holder, for several sums, one of which being fire insurance of certain risks was illegal.

They sent one notice to him, claiming the amount of all the assessments, including the illegal one, in one sum.

Held, that the plaintiffs were not entitled to recover any of the assessments.

Robinson, Q.C., and *A. Bruce*, for the appeal.

J. H. Macdonald, and *J. R. Roaf*, contra.

WRIGHT v. HURON.

Member of Synod—Vested rights.

The judgment of PROUDFOOT, J., reported 29 Gr. 341, reversed, the Court holding on appeal that there was not any contract between the parties; and that the Synod had power to vary and repeal its by-laws, and that the plaintiff must be assumed to have accepted his stipend with knowledge of those facts; and, therefore, the by-law depriving him of that amount was binding.

S. H. Blake, Q.C., for the appeal.

Idington, Q.C., contra.

HILLIARD v. THURSTON.

Negligence—Fire—Steamboats.

Held, affirming the judgment of PROUDFOOT, J., that a person navigating a steamboat without legal sanction is liable for loss occasioned to property in the neighbourhood, by fire communicated thereto by sparks issuing from the funnel of the steamer, without any proof of actual negligence.

Moss, Q.C. and *Hudspeth*, Q.C., for appeal.

S. H. Blake, Q.C., and *Peck*, contra.

O'DONOHUE v. WHITTY.

Solicitor and client—Costs—Negligence.

This Court affirmed the judgment of the Court below, reported 2 O. R. 424, on the grounds that the solicitors had not been guilty of such negligence as to relieve the client from liability for their costs.

Osler, Q.C., for appeal.

Moss, Q.C., contra.

MCDONALD v. CROMBIE.

Preferential judgments—R. S. O. ch. 118.

The judgment given in the Court below, as reported 2 O. R. 243, was affirmed on appeal.

J. H. McDonald, for the appeal.

Thomson, contra.

BADDIN v. SUTHERLAND.

Appeal from unanimous decision of Divisional Court—Special leave—Judicature Act, sec. 34.

On a motion under sec. 34 of the Judicature Act, from the unanimous decision of a Divisional Court, refusing a rule for a new trial where the verdict was for \$500, the Court refused leave because there was not reasonable prospect for an appeal being successful, though they thought the verdict not entirely satisfactory and that the Court below in the exercise of their discretion might with propriety have granted a new trial.

Osler, Q.C., for the motion.