

thirty days from the time he sent in his corrected and completed proofs of loss, as he thereby admitted that his first proofs were imperfect.

*Howell*, K.C., and *Metcalf*, for plaintiff. *Ewart*, K.C., for defendants.

Full Court.]

RITZ *v.* SCHMIDT.

[May 6.

*Retroactive legislation—Construction of statutes—Queen's Bench Act, 1895—Rules 803, 804—60 Vict., c. 4.*

Appeal from verdict of DUBUC, J., in favor of the plaintiff in an action for recovery of possession of land bought by the plaintiff at a sale made under an order of the Court of Queen's Bench, dated in March, 1896, providing for the realization of the amount of a judgment of a County Court of which a certificate had been registered. The order had been made in a summary way under the power conferred by Rule 803 of the Queen's Bench Act, 1895, and not in an independent action, and it had been held by the Full Court in *Proctor v. Parker*, 11 M.R. 485, decided 28th February, 1897, that that Rule did not authorize such summary proceedings to be taken in the case of a judgment of a County Court. Defendants contended that the order was a nullity, and that all the proceedings under it were invalid and of no force to support the plaintiff's title. The Legislature of Manitoba had, however, at its next session passed the Act, chapter 4 of 60 Victoria, assented to 30th March, 1897, amending "The Queen's Bench Act, 1895," by inserting the following Rule after Rule 807: "Rule 807 (a). In the case of a County Court judgment an application may be made under Rule 803 or Rule 804, as the case may be. This amendment shall apply to orders and judgments heretofore made or entered, except in cases where such orders or judgments have been attacked before the passing of this amendment." This enactment came into force after the completion of all the proceedings upon which the plaintiff relied for title. It was admitted that the defendants had notice of the proceedings under the order in question, and that it had been in no way "attacked" prior to the coming into force of the amending act.

*Held*, that, while the intention of the Legislature was not well expressed, it was manifest, when all the facts were considered, that it intended to make valid not only the orders which had been made, but also any proceedings which had been taken under them, except where the validity of the orders had been questioned in some suit, action, or proceeding before 30th March, 1897, and that plaintiff's verdict must be sustained.

*Tupper*, K.C., for plaintiff. *Phillips*, for defendants.