Mortgage—*Part Payment — Re-advance.*]—Two years after a mortgage had been in part paid off, the mortgagor applied to the mortgagee to re-borrow the money, agreeing verbally to return the receipts for the money paid, so that there should not remain any evidence of payment; and that the amount so re-borrowed should be considered as of the original charge created by the mortgage. Some but not all of the receipts were returned to the mortgagee, and the money re-advanced by him upon the terms proposed by the mortgagor. Under this state of facts, the master in taking the accounts directed by the decree, allowed the mortgagee the full amount of the mortgage. On an appeal from the master's report:—Held, that the principle upon which he had taken the account was correct; and that the mortgagor was estopped from proving the payment of any portion of the original sum advanced. *Inglis* v. *Gilchrist*, 10 Gr. 301.

Railway Company — *Fraudulent Receipt.*]—Receipts issued by station agent for goods not received—Liability of company. See *Erb* v. *Great Western R. W. Co.*, 3 A. R. 446, 42 U. C. R. 90; *Oliver* v. *Great Western R. W. Co.*, 28 C. P. 143.

Sale of Wheat—*Receipt by Defendant's Agent for Plaintiff.*]—The plaintiff agreed verbally with defendant to sell and deliver wheat to him, and on delivery he received a receipt, signed by defendant's miller, as follows:—"Received in store from —— for ——, 51 bushels fall wheat, at—, S. D.," &c.:—Held, that the words of the receipt expressing the wheat to have been received "in store," did not preclude the plaintiff from proving an absolute sale on the terms above set forth. *McBride* v. *Silverthorne*, 11 U. C. R. 545.

Warehouse Receipt.]—Defendants gave a receipt to C. H. & Co., stating that they had received and held on their (C. H. & Co.'s) account 500 bushels of wheat. Plaintiff relying upon this receipt, and the representations made by C. H. & Co., purchased from the said C. H. & Co. the supposed 500 bushels of wheat, and took an assignment of the said receipt as evidence of his purchase, and as authority to defendants to deliver the same to plaintiff. In fact, however, the defendants at the date of the receipt had only received some 270 bushels on account of C. H. & Co.:—Held, that defendants having given their receipt for 500 bushels of wheat, were estopped from setting up that they had not at the date thereof the quantity of wheat mentioned therein in store for C. H. & Co. *Holton* v. *Sanson*, 11 C. P. 606.

See, also, BAILMENT—CARRIERS.

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6. *Sheriff.*

Ca. Sa. after Return of Nulla Bona.]—To an action against a sheriff for a false return of nulla bona to a writ of fi. fa., the bare fact that the plaintiff after such return sued out a ca. sa. will be no defence, unless it be further averred in the plea that the plaintiff accepted the return of nulla bona with a knowledge at the time that it was false. *Bays* v. *Ruttan*, 6 U. C. R. 263.

Certificate.]—At the suit of one H. under a fi. fa. dated 28th April, 1859, the defendant (sheriff) seized the lands of W., deceased, and made his return "lands on hand to the value of £10." A ven. ex. was sued out, under which defendant sold and realized a portion of the amount: and under the same writ other lands were offered for sale, but there being no bidders, the sheriff, on the 1st May, 1860, indorsed a return on the writ, that he had made £238, lands on hand for want of buyers to value of £5, and "no lands" for residue, which writ, with the return thereon, was retained by the sheriff till 1st July, 1862. On the 28th January, 1862, a fi. fa. lands was sued out by the present plaintiffs, and indorsed for £221, &c., and on the same day the defendant gave his certificate that he had no execution or extent in his hands against the lands of said W. (deceased). On the 2nd February, 1862, a ven. ex. and fi. fa. residue was sued out and delivered to the defendant at the suit of H. above mentioned for £346, &c. Under this writ, defendant advertised, and the attorney of plaintiffs notified defendant that the plaintiffs claimed priority over H.'s execution. Defendant, notwithstanding such notice, duly sold under and applied the proceeds of sale upon H.'s execution. The plaintiffs' execution expired on 20th January, 1863, and was returned "no lands." B., the attorney for the plaintiffs, was the assignee of plaintiffs' judgment, and beneficially interested therein. In an action against the defendant, the sheriff, for a false return:—Held, that the defendant was not estopped by his certificate of 28th January, 1862, from setting up H.'s writ as an answer to this action. *Mein* v. *Hall*, 13 C. P. 581.

Escape—*Assignment of Bond.*]—The sheriff cannot admit a debtor to the limits except by statute. Where he does so on a bond not in accordance with the Act he is liable as for a voluntary escape, and a creditor by having required and taken an assignment of such a bond, is not estopped from looking to the sheriff. *Kingan* v. *Hall*, 23 U. C. R. 503.

Fi. Fa. Lands after Return.]—Case for false return of nulla bona to a fi. fa. Plea, that the plaintiff accepted such return knowing it to be untrue, and issued a fi. fa. lands upon it:—Held, no defence. *Markle* v. *Thomas*, 13 U. C. R. 363.

Invalid Sale.] — A sheriff having sold shares in a steamship company under execution, and received the money, can not return nulla bona on the ground that they were not properly saleable under the writ. *Hewitt* v. *Corbett*, 15 U. C. R. 39.

Official Capacity.]—There can be no estoppel on a sheriff, when sued as an individual, by reason of a deed executed by him exclusively as a public officer. *Kissock* v. *Jarvis*, 9 C. P. 156.

Prior Writ.]—In an action against the sheriff for a false return, it appeared that on the day before the plaintiffs' writ came in, he received a fi. fa. at the suit of one K. for more than the value of the debtor's goods, and gave a warrant to his bailiff, who only went to the debtor's shop and told him of it, because he thought more could be got by allowing him to go on with his business. On the plaintiffs' writ he did nothing. The plaintiffs' attorney wrote twice, urging him to act, and ruled him, and in February, 1866, he returned that writ nulla bona, K.'s writ having been previously renewed. The court being