

McCarthy, Q.C., and *W. F. Burton* for the appellant.

Guthrie, Q.C., and *Lash*, Q.C., for the respondents.

This case was since appealed to the Supreme Court and stood over for judgment. The Court has since reversed the Appellate Court, directing that the award as originally made should stand.

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

Div'l Ct.]

[June 22.

MOONEY v. SMITH.

Assessment and taxes—Sale of land for taxes—Purchase by wife of treasurer who conducted sale—Sale and conveyance void—Fraud—R.S.O., c. 193, s. 189.

A purchaser of land at a tax sale was made nominally by one G. for the plaintiff, but was in reality made with the money and for the benefit of the plaintiff's husband, the treasurer of the county, who conducted the sale.

Held, in an action of trespass, that the treasurer's position absolutely debarred him from becoming a purchaser at the sale, and the sale and conveyance to the plaintiff were void; and as the land remained in the hands of the persons guilty of the original fraud, the sale was not cured by the provisions of R.S.O., c. 193, s. 189, although it took place in 1883 and the action was not brought till 1889.

G. T. Blackstock for the plaintiff.

Masten and *H. B. Dean* for the defendant.

Div'l Court.]

[June 22.

PIZER v. FRASER.

Intoxicating liquors—Liquor License Act, R.S.O., c. 194, s. 11, ss. (8) (14)—Petition against issue of license in polling sub-division—Form of petition—Particularity.

The Liquor License Act, R.S.O., c. 194, s. 11, ss. (14), provides that "No license shall be granted to any applicant for premises not then under license, or shall be transferred to such premises if a majority of the persons duly qualified to vote as electors in the sub-division

at an election for a member of the Legislative Assembly, petition against it, on the grounds hereinbefore set forth, or any of such grounds.

More than one-half of the electors in a certain polling sub-division petitioned the license commissioners of the district "against the issue of any license within the bounds of said polling sub-division . . . for reasons specified in sec. 11, sub-sec. (8), of the Liquor License Act, R.S.O., or for one or more of such reasons,"—not otherwise specifying any grounds or referring to any applicant or premises.

The plaintiff was an applicant for a license for premises not under license, situate in the sub-division, and the question stated for the opinion of the Court was whether under s. 11, ss. (14), the presentation of the petition precluded the defendants, the license commissioners, from certifying for a license to the plaintiff.

Held, that the petition did not conform to the statute, which requires that the objection shall be to the granting of a particular license, and also that some one or more of the reasons given in ss. 8 shall be set forth, or all of them specifically alleged; and therefore the defendants were not precluded from certifying for a license.

Aylesworth for plaintiff.

J. J. Maclaren, Q.C., for defendant.

Div'l Court.]

[June 22.

MAGEE v. GILMOUR.

Landlord and tenant—Verbal lease of land—Expiry of term upon day certain—Notice to quit—Sub-lease—Overholding tenants—Warrant of distress—Creation of new tenancy—Payment of rent.

The result of a verbal lease of real property to continue until and expire upon a day certain is that the tenant is bound to give up possession at the end of the stipulated period without any notice to quit. And where McC., the tenant for such a term, sub-let to the defendants, but not for any definite period,

Held, that their term also expired upon the day the original tenancy expired, and when they continued in possession thereafter they were overholding tenants.

The plaintiff, the landlord, issued a distress warrant for rent of the premises in question after the expiry of the term, and the defendants, without the concurrence of McC., who had tried to dislodge them and refused to receive rent