

Sup. Ct.

NOTES OF CANADIAN CASES.

[Chan. Div.]

party opposite their respective lands *ad medium filum aque*.

3rd.—That the rights of fishing in a river, such as is that part of the Miramichi from Price's Bend to its source, are an incident to the grant of the land through which such river flows, and where such grants have been made, there is no authority given by the B.N.A. Act, 1867, to grant a right to fish, and the Dominion Parliament has no right to give such authority.

4th.—Per RITCHIE, C.J., and STRONG, FOURNIER and HENRY, J.J.—(reversing the judgment of the Exchequer Court on the 8th question submitted to that Court), that the ungranted lands in the Province of New Brunswick being in the Crown for the benefit of the people of New Brunswick, the exclusive right to fish follows as an incident, and is in the Crown as trustee for the benefit of the people of the province, and therefore a license by the Minister of Marines and Fisheries to fish in streams running through provincial property would be illegal.

*Lash*, Q.C., for appellant.

*Weldon*, Q.C., for respondent.

From Ontario.]

LAWLOR V. LAWLOR.

*Estate tail—Mortgage of—Reconveyance to mortgagor—Effect of—R.S.O., ch. 111.*

*Held*, (confirming the judgment of the Court of Chancery), that a mortgage in fee, executed by a tenant in tail, bars the estate tail, and vests the fee simple in the mortgagee, and a discharge of such mortgage, executed by a mortgagee under the provisions of the R.S.O., ch. 111, does not re-vest the estate tail in the mortgagor, but does that estate which the mortgagee had. HENRY, J., dissenting.

*Stewart Tupper*, for appellant.

*M'Intyre*, for respondent.

QUEEN'S BENCH DIVISION.

IN BANCO, EASTER TERM.

BEARINGER V. THRASHER.

*Insolvency Act—Personal wrong—Discharge—Ca. sa.*

The Court, affirming judgment of Cameron, J., held that a judgment against a bankrupt in

action of seduction is a "debt due as damages for a personal wrong" within the Insolvent Act of 1864, and a discharge under the Act does not affect it. Also that a *ca. sa.* need not be returned and filed within a year from the judgment.

*Bethune*, Q.C., and *Clute* for appeal.

*Holman*, contra.

CHANCERY DIVISION.

Boyd, C.]

[May 12.]

MALCOMSON V. WADE.

*Mortgage—Costs of sale, Bill of—Subsequent Incumbrancer.*

In October, 1880, a sale was made of certain property under a power of sale contained in a mortgage. The solicitors of the mortgagee paid over to his agent in this country his principal money and interest, and detained, with the agent's sanction, a lump sum for their costs, but rendered no bill in detail. On the request of a subsequent encumbrancer the solicitors furnished him with a statement showing the settlement with their client's agent, but declined to furnish a bill of their costs in detail. The Master in Chambers directed the solicitors to deliver a copy of their bill of costs upon payment of the costs of such copy.

On appeal, BOYD, C., considered the circumstances of the case special, within the meaning of sect. 44 R. S. O., Cap. 140. He thought that the subsequent encumbrancer was entitled to see the items of the bill and judge whether to seek redress for any over-payment the mortgagee might have made to his solicitors.

Having regard to the state of the authorities no costs of appeal were given.

*Shepley*, for the appeal.

*Small*, contra.

Proudfoot, J.]

[May 18.]

TOWN V. BORDEN.

*Will—Vesting—"Worldly estate."*

A testator, by his will, "as touching his worldly estate" gave to his wife the use of all his personal property, for her support and the bringing up of his children; likewise he gave her the full use of his farm and buildings during her natural life, for her support and the bringing up of the