

*Held*, on demurrer, that the notice was not a notice within the terms of the said section and did not constitute the defendant the tenant of the mortgagees.

*W. H. Trueman*, for plaintiff.

*M. G. Teed*, for defendant.

Full Court.]

EX PARTE THOS. GALLAGHER.

[June 2.

*Canada Temperance Act—Qui tam action against magistrate at suit of defendant's father not sufficient ground for bias.*

*Held*, on an application for a rule nisi for a certiorari to remove a conviction under the C. T. A., that the fact that a qui tam action was pending against the magistrate who made the conviction at the suit of the defendant's father for a penalty for not making the returns required by the C. T. A. of convictions entered by him under the Act, was not a sufficient ground of bias to take away his jurisdiction in a case against the son. Rule refused.

*M. G. Teed*, for applicant.

Full Court.]

EX PARTE HANNAH GALLAGHER.

[June 2.

*Qui tam action against magistrate at suit of defendant's husband sufficient ground for bias.*

The Court granted a rule in the case of a conviction against this applicant (the wife of the party at whose suit the qui tam action was pending against the magistrate) on the ground of bias in the magistrate because of the said action pending at the suit of the husband.

*M. G. Teed*, for applicant.

BARKER, J. }  
In Equity. }

MITCHELL v. KINNEAR.

[July 10.

*Mortgagor and mortgagee—Power of sale—Sale by mortgagee to himself—Subsequent valid sale—Surplus—Interest on surplus and rents—Costs*

A mortgagee, his power of sale on default having arisen, sold the mortgaged premises, on January 25, 1888, ostensibly to a third person, in reality to himself. On February 8, following, he sold a portion of the premises to C. for \$1,200, \$333.73 in excess of the amount due on the mortgage. He continued in possession of the remaining part, and received \$300 rent therefor. In a special case submitted to the Court:

*Held*, that the sale by the mortgagee to himself was abortive, and that he was a mortgagee in possession, and should account to the mortgagor for the surplus received from the second sale, together with the rent, with interest on both amounts at six per cent.

*Held*, also, that the mortgagor should have cost of case.

*M. G. Teed*, for the plaintiffs.

*Powell, Q.C.*, for the defendants.