

7. The bill of a subsequent incumbrancer stated a completed transaction. The mortgagees, through oversight, allowed the bill to be taken *pro confesso*, and a decree was made accordingly. The plaintiff subsequently desiring more extensive relief, filed a petition in the nature of a bill of review in order to obtain the same. The mortgagees, in their answer to the petition, set up the facts which shewed the transaction to be not completed. The Court considered the whole case to be re-opened by this petition, and decided that the sale to their vendee did not affect the rights of the mortgagees, and that they were chargeable only with the amount actually received from the purchaser.

The Bank of Upper Canada v. Wallace
[In Appeal] 280.

8. Where there is a misjoinder of petitioners, the Court has jurisdiction at the hearing of the petition to allow the same to be amended by striking out the name of one of the petitioners.

Gilbert v. Jarvis, 294.

9. In a partition suit, a question of title raised between co-defendants was decided at the hearing and without being referred to the Master.

Wood v. Wood, 471.

10. In a suit for the recovery of mortgage money, the question between the parties was, whether the mortgage money had been paid; both parties offered evidence at the hearing, and the Court received the same and adjudged thereon.

Bacon v. Shier, 485.

11. Where the pleadings and evidence were not before the Court in a satisfactory shape, and the Court being obliged to reject evidence on both sides as not material under the pleadings, was not satisfied as to the result being in accordance with the rights of the parties upon the actual facts, leave was given to amend on payment of the costs of the hearing, &c.

Conlin v. Elmer, 541.

12. *Quære*, whether delay in the prosecution of a suit for specific performance may be a bar to relief at the hearing—VANKOUGHNET, C., being of opinion that it is no bar—ESTEN, V. C., holding the opposite, and SPRAGOE, V. C., giving no opinion.

McMahon v. O'Neil, 579.