

mortgages, against whom notice is not deemed equivalent to a distress.

Semble, also that the statute does not apply when the goods are not removed from the demised premises.

J. Crickmore, for the claimants.

J. B. Clarke, for the landlord.

Aylesworth, for the Sheriff.

IN BANCO—FEBRUARY 8.

HEADSTROM V. TORONTO CAR WHEEL COMPANY.

Contract—Action for non-acceptance—Failure to deliver goods in accordance with contract—Promissory note—Payment.

This was an action for breach of contract to accept a quantity of iron of a brand known as the "Depore," and the question was whether certain iron tendered to the defendant complied with the contract, namely—a coming within the said contract.

The Court, on the evidence set out in the case, held that it did not, being iron of a different brand called Menomine iron, and therefore the defendants were not liable.

There was also a count on a promissory note given to the plaintiffs in the course of their iron transactions; but which the court on the evidence, also set out in the case, held to have been paid, except as to \$19.64, for which the plaintiff was held entitled to a verdict.

Hector Cameron, Q. C., and *Bigelow*, for the plaintiffs.

George Kerr and *Akers*, for the defendants.

FREEHOLD LOAN AND SAVINGS SOCIETY V. FARRELL.

Building societies—Note as collateral security by persons not members—Validity—Motion by plaintiff—Right of defendant to raise defence not coming within plaintiff's motion.

Held, that under C. S. U. C., ch. 53, sec. 40, and 36 Vict., ch. 104, sec. 9, D., the latter act specially relating to the plaintiffs, a Loan and Savings Society thus were empowered to take as collateral security for a mortgage given by a person not a member of the company, the promis-

ory note of a person also not a member of the company.

In the mortgage in this case, to which the note of the defendant was given as collateral security, no interest was specified, but it was paid in advance until February, 1878, but thereafter it was paid at the end of the year instead. It appeared that in February, 1878, a new mortgage had been executed by this mortgagor, and handed to the company, but which they said they never accepted, as the terms upon which they agreed to accept it, namely the procuring of a new note from defendant as collateral security, had never been done, and that they held to this first mortgage and note. The learned judge at the trial found in the plaintiff's favor on this point.

Held, that the defendant was not, on a motion by the plaintiffs, to enter a verdict for them on another point, no motion having been made by him, in a position to shew that the finding of the learned judge was erroneous.

Robinson, Q. C., for the plaintiff.

Ferguson, Q. C., for the defendant.

CHAMBERLAIN V. TURNER, et al.

Assessment and taxes—Taxes when due—Demand.

On the 2nd of April a by-law was passed by the corporation of the City of Toronto imposing a tax rate for the year 1880, and on the same day another by-law was passed making provision for the payment of the taxes over \$5.00 by instalments, and declaring that all taxes should be paid on the 4th June, 1880, but that on prompt payment of the first instalment on the said 4th June, the time would be extended for the payment of the other instalments to days named, and on such non-payment an additional charge of 5 per cent. was imposed. It was also expressly provided that nothing therein contained should affect or diminish the collector's right, when he deemed it expedient, after a proper demand made, to proceed at any time before the said several days, to collect the said taxes by distress, &c. By the statute the right to distrain was given on neglect to pay fourteen days after demand; and that such demand should be made by calling at least once at the party's residence, &c., and demanding the taxes.