

Ct of Ap.]

NOTES OF CASES.

[Ct. of Ap.]

and that the plaintiff has, in consequence, suffered damage.

*Robinson, Q. C.*, for appellant.

*Read, Q. C.*, and *W. Read*, for respondent.

From C. P.]

REGINA V. BROWNE.

*Extradition—Depositions—Foreign indictment—33, 34 Vict., cap. 52, and 36, 37 Vict., cap. 60 (Imp.)—31 Vict., cap. 94 (D).*

The defendant was accused by the State of New York of complicity in a crime committed in that State, and was under indictment in the foreign court. Upon the application for extradition, the coroner who had held the inquest in the foreign State himself appeared, and proved his authority to do so, and by oral testimony proved the original depositions taken upon the inquest, which he then produced. A warrant was issued for the defendant's arrest by the district attorney of the foreign State upon the finding of the grand jury of a true bill for murder, but upon what evidence it proceeded was not shown.

*Held*, that the Canadian Act, which enacts that, upon the return of the warrant of arrest, copies of the depositions upon which the original warrant was granted in the United States, certified, &c., and attested upon the oath of the party producing them to be true copies, may be received in evidence, does not interfere with the enactments of the Imperial Statute as to original depositions, and that the original depositions in this case were therefore properly admitted.

An accessory before the fact is extraditable, but an accessory after the fact is not. But there was sufficient evidence here to warrant and require extradition.

*Held*, that the foreign indictment was not admissible as part of the evidence.

*Ogden*, for the appeal.

*J. K. Kerr, Q. C.*, contra.

From C. P.]

MORTON V. THE CITY OF ST. THOMAS.

*Highways—Dedication—Registered plan.*

Apart from the Registry Act, if a person sells lots according to a plan, the purchaser acquires

an interest in the streets shown upon the plan adjoining the lots which places them beyond his future control to their injury.

Registration of such a plan does not constitute a dedication of the streets or lanes thereon to the public, and a by-law passed for the opening of such a lane as a public highway, without compensation to the owner, was properly quashed.

*Cattanach*, for the appellants.

*Hodgins, Q. C.*, for the respondent.

From Blake, V. C.]

LAWLOR V. LAWLOR.

*Estate tail—Mortgage of, in fee simple—Statutory discharge—Effect of.*

A mortgage in fee simple of an estate tail has by statute a tortious operation, conveying to the mortgagee a greater estate than the tenant in tail has.

A registered discharge, under section 67 of the Registry Act, of such a mortgage, which has become absolute by non-payment on the day named, does not vest the estate in the mortgagor barred of the entail, but its effect is to resettle upon the mortgagor his original estate, upon the uses declared by the original settlement.

*Plumb*, for appellants.

*Tupper*, for respondent.

From Blake, V. C.]

MCDONALD V. DAVIDSON.

*Allowance to Trustee—Discretion of Judge.*

What is a proper compensation to be allowed to a trustee for his management of the trust estate is matter of opinion, upon hearing and considering what he has done; and even if it appear that in granting the allowance the Court below may have erred on the side of liberality, that is not sufficient ground for reversing the judgment.

Remarks upon the bringing of an appeal where the amount in question is trivial.

*Rose*, for appellants.

*W. Cassels and K. McLean*, for respondent.