

Divisional Court.]

REGINA v. SCULLY.

[July 10.

*Mandamus—Malicious prosecution—Record of acquittal—Clerk of the Peace—Quarter Sessions—Fiat of Attorney-General.*

The bills, indictments and records of the Court of Quarter Sessions, which are in the hands of the Clerk of the Peace, are public documents, which every one who is interested in them has the right to see; so that a defendant who has been tried and acquitted at the sessions is entitled to a copy of the record of acquittal, and it is not necessary to obtain the fiat of the Attorney-General therefor.

*Regina v. Ivy* (1874) 24 C.P. 78 and *Hewell v. Cane* (1894) 26 O.R. 135, distinguished.

*F. Arnoldi*, K.C., for plaintiff. *J. R. Cartwright*, K.C., for Attorney-General and Clerk of the Peace. *J. H. Moss*, for private prosecutor.

Meredith, C.J.]

RE CHISHOLM.

[July 17.

*Vendor and Purchaser's Act—Will—Restrictions against selling, mortgaging or encumbering—Mortgage by devisee—Breach of condition.*

A will providing for the division into specified halves of a certain farm lot, between testator's two sons, contained restrictions against the devisees selling or mortgaging their respective halves until after the expiration of twenty-five years from the testator's death, and also against encumbering it for a like period.

*Held*, on a special case under the Vendor and Purchaser's Act, that the latter restriction was void; but following the decision of FERGUSON, J. in *Chisholm v. London and Western Trusts Co.* (1897) 28 O.R. 347, the former restriction was good, so that the giving of a mortgage by one of the devisees on his half constituted a breach of condition for which the heir might enter and divest the devisee; and therefore the title was not such a one as a purchaser could be compelled to take.

*A. B. Cox*, for vendor. *Stuart*, for purchaser.

Meredith, C.J.]

HILL v. HILL.

[July 18.

*Alimony—Lunatic—Admission to asylum under R.S.O. 1897, c. 317, s. 12—Removal by wife's relatives.*

A husband on two occasions procured the release of his wife from the provincial lunatic asylum, where he had procured her admission as a lunatic. After second release she grew worse, becoming violent and dangerous, and he again applied for her admission, which was refused, it being insisted that she would only be admitted as a warrant patient, whereupon he took proceedings under s. 12 of R.S.O. 1897, c. 317, which resulted in her being committed to jail as a dangerous