

ed that the lands be sold to St. P. for \$200, and that, upon payment into Court of the purchase money to the credit of the matter, A. D., the father and next friend of the infant, be empowered to make and execute a proper deed of conveyance to the purchaser. A deed to St. P. was produced at the trial, which recited that it was made pursuant to an order of the Court. It was executed by the infant by his next friend for the expressed consideration of \$200, and there was a receipt for the money endorsed thereon and signed in the same way. The deed was dated the 11th October, 1880, and there was no other evidence of the time of its execution. The money was not paid into Court until the 23rd September, 1881, and on the 30th August, 1881, St. P. had re-sold the land for \$546 to H., who appeared to have paid the money into Court.

Held, 1. In the absence of evidence to the contrary, the deed must be assumed to have been executed on the day it bore date.

2. The deed of conveyance to St. P. was invalid, because it was executed without authority from the Court, and the order afterwards made did not provide for a conveyance already executed, and by its terms the payment of the money into Court was a condition precedent to the exercising of the power to convey, and sections 10, 11 and 12 of the Half-Breed Lands Act, R. S. M. c. 67, did not cure these defects.

3. Section 11 pre-supposes the existence of some order, fiat or decree authorizing the sale. Its object is to cure defects, irregularities and omissions in connection

with the doing of something authorized by the Court to be done, not to validate proceedings wholly unauthorized.

Barber v. Proudfoot, decided 30th November, 1889, unreported, followed.

4. The most restricted construction possible must be placed upon these enactments.

O'Brien v. Cogswell, 17 S. C. R. 420, and *Whelan v. Ryan*, 20 S. C. R. 65, followed.

The question of the necessary proof of an order of the Court for the sale of a half-breed infant's lands, where the order had been lost, considered. *Hardy v. Desjarlais* 550

HOMESTEAD.

Liability for taxes before patent.
See PROHIBITION, 3.

HORSE.

Sale of horse—Principal and agent—Undisclosed principal—Implied authority of agent to warrant—Stallion sold for breeding purposes—Implied warranty.

See PRINCIPAL AND AGENT.

Sale of horse—Contagious disease—Diseases of Animals Act—Caveat emptor.

See SALE OF GOODS, 2.

HUSBAND AND WIFE.

Judgment debtor—Examination of—Refusal to answer questions concerning business carried on in wife's name.

See EXAMINATION, 2.