

contents being \$850. The claim sued upon was for \$700 upon barn No. 3, the defendants before action having paid the \$850 on the contents. By the terms of the policy the loss was made payable to D. K. Rand, to the amount of \$1,000, he being the mortgagee to that extent of the real property insured. Subsequent to the bringing of this action the plaintiff paid off the mortgage. KELLY, J., said that the ground of defence that the plaintiff was not entitled to maintain the action owing to the loss being so payable, was not tenable. There was nothing to distinguish the case in that respect from *Prittie v. Connecticut Fire Insurance Co.*, 23 A.R. 449; and there was no other ground disentitling the plaintiff to bring the action. Judgment in favour of the plaintiff for \$700 and interest, with costs. J. Harley, K.C., for the plaintiff. S. G. McKay, K.C., for the defendants.

MACDONELL v. THOMPSON—KELLY, J.—DEC. 31.

Husband and Wife—Land Purchased in Name of Wife—Action by Judgment Creditor of Husband to Establish Trust—Evidence—Findings of Fact of Trial Judge—Costs.]—Action by a judgment creditor of the defendant W. S. Thompson for a declaration that his wife, the defendant Mary Stuart Thompson, was a trustee for him of certain land which had been conveyed to her, and for equitable execution. KELLY, J., said that the uncontradicted evidence of the defendants was that the purchase of the land was made for the defendant Mary Stuart Thompson, and that her co-defendant acted merely as her agent and attorney in the buying of the land and the erection of the buildings and looking after the property; and that much of this evidence was corroborated by the vendor of the land; and, therefore, it was impossible to hold that the property belonged to the defendant W. S. Thompson or that his co-defendant was a trustee thereof for him. Action dismissed without costs. J. F. Boland, for the plaintiff. B. N. Davis, for the defendants.

MULHOLLAND v. BARLOW—FALCONBRIDGE, C.J.K.B.—DEC. 31.

Trespass to Land—Trifling Area and Value—Access to Land—Right of Way—Fences—Counterclaim—Injunction—Damages—Costs.]—Action for trespass. Counterclaim for a declar-