MILLER V. GRAND TRUNK RAILWAY CO.

Railway Company—R. S. O. ch. 199.

Held, that the defendants, a railway company, were not subject to the provisions of R. S. O. ch. 199.

H. J. Scott, for plaintiff.

Bethune, Q. C., *contra.*

MARTIN V. BEARMAN.

Assignee of chose in action—Subsisting equities.

Held, that the assignee of a chose in action, in this case a chattel mortgage, takes subject not merely to the state of the account, but to all the equities subsisting between the original parties.

R. Martin, Q.C., for plaintiff.

Osler, Q. C., *contra.*

TIMMINS V. WRIGHT.

Malicious prosecution—Proof of affidavit and Judge's order—Secondary evidence.

Held, that a County Court Judge's order is well proved under R. S. O. c. 62, sec. 28, by the production of a copy, certified as such, under the hand of the Clerk of the Court, and with a seal attached to such certificate purporting to be the seal of the Court; but that an affidavit filed in that Court is not duly proved by a copy similarly certified and sealed.

Richards, Q.C., for plaintiff.

McCarthy, Q.C., *contra.*

MCSHERRY V. COBOURG.

Corporation—Pleading—Amendment.

The plaintiff sued "The Commissioners of the Cobourg Town Trust," in whom the harbour at Cobourg is vested in fee by statute, 22 Vict. cap. 72, for damages, for loss of his vessel caused by negligence of defendants. The defendants pleaded only, not guilty and negligence of plaintiff. At the trial plaintiff was non-suited on the objection, that defendants were sued as a corporation, but were not so under the statute.

Held, that this objection should have been raised by plea, and was not open to the defendants on this record.

At the trial plaintiff asked leave to amend by adding the names of the trustees, which was refused.

Held, that amendment asked was proper, and the case should not have been stopped.

Bigelow for plaintiff.

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

TRUST & LOAN CO. V. LAWRAISON ET AL.

Distress clause in mortgage.

A mortgage was drawn under the Act as to Short Forms of Mortgages, with the addition of a clause that the mortgagor did "attorn and become tenant at will to the company, subject to the said proviso" (for redemption). The mortgagee never executed the mortgage, which named a day for payment of principal more than three years from the date of the mortgage and intermediate days for payment of interest in advance.

Held, per HAGARTY, C. J., that a tenancy at will was created at a fixed rent equivalent to the interest, for which the mortgagee had all the remedies of a landlord.

Per CAMERON, J., though not dissenting, that the distress clause had the appearance of being an evasion of the Chattel Mortgage Act.

Robinson, Q.C., for plaintiffs.

Leith, Q.C., *contra.*

MCCARTHY V. ARBUCKLE.

Ejectment—Death of defendant—Amending rule by adding parties.

In an action of ejectment, the plaintiff recovered a verdict for the land claimed, but the defendant was held entitled to recover the value of his improvements, he having made them under a *bona fide* belief of title, and the matter was referred to the master to report thereon. The Master accordingly made his report, which was moved against. After the Master had made his report, the defendant died, leaving a son by a former wife, his widow; and it appeared that a loan society had had an interest in the improvements assigned to them. The Court permitted the plaintiff to amend his rule *nisi* by calling on the widow and son, and on the loan society, to show cause why they should not be made