

MEREDITH, C. J.]

[Jan. 6

DONNELLY v. AMES.

*Ejectment—Evidence—Possession—Seisin—27 & 28 Vict. c. 29, sec. 1.*

In an action for the recovery of land, proof of possession is prima facie evidence of title; and, in the absence of proof of title in another, is evidence of seisin in fee; but the plaintiff must recover on the strength of his own title; and if it be proved that the title is in another, even though the defendant does not claim under or in privity with such other, the plaintiffs' action will fail.

Where, in such an action, the plaintiffs claimed to have acquired a title thereto by possession, but which possession was merely that of a squatter, commencing in 1851, on land then patented and in a state of nature, such possession being without the knowledge of the patentee or those claiming under him,

*Held*, under 27 & 28 Vict., c. 29, sec. 1, that in order to create a good title by possession, forty years possession at least was necessary; and the action therefore failed as against the defendant in possession, though not claiming through or in privity with the patentee.

The plaintiffs claimed under the will of their father, which had never been registered; while the defendants claimed under a chain of title derived through conveyances by the successive occupants, which were duly registered.

Quare as to the effect of the Registry Act in such cases.

*Walkem*, Q.C., and *J. B. Walkem*, for the plaintiffs.

*Shepley*, Q.C., and *Mudie*, for the defendants.

ROBERTSON, J.]

[Jan. 6.

RE ONTARIO FORGE & BOLT CO.

*Auditor—Right to rank as clerk, etc.—Winding up Act.*

An auditor employed in auditing books of a company does not come within the designation of "clerks and other persons having been in the employment of the company in or about its business or trade," so as to entitle him to the special privilege given by sec. 56 of the Winding up Act, R.S.C., c. 129, to be collocated in the dividend sheet for arrears of salary, or wages, etc.

*Akers*, for the application.

*John Greer*, contra.

BOYD, C.]

[Jan. 22.

Longbottom v. City of Toronto.

*Pleading—Notice under 57 Vict., c. 50, sec. 13 (O.)—Want or insufficiency of—Enquiry by judge—Defendants prejudiced.*

The want or insufficiency of the notice under 57 Vict., c. 50, sec. 13 (O.), is no bar to an action if the judge is of opinion there was reasonable excuse, or that the defendant was not prejudiced.

*Held*, that it is proper practice for the defendant to set up want of notice