

C. of A.]

NOTES OF CASES.

[C. of A.]

from practising their calling in the James Street Market" or in the public streets adjacent thereto: *Held*, that the Provincial Legislature possesses the power under the British North America Act to pass Acts to regulate markets, and that the above section was not *ultra vires*. *Held* also, that the term "small wares," being used in the Act, it is sufficient to use it in a by-law passed under the Act, although difficulty might arise as to what is included under it. *Held* also, that the prohibition against selling "in the public streets adjacent," was bad for uncertainty.

Robinson, Q. C., for applicant.

McKelcan, Q. C., contra.

From Blake, V.C.]

DILK v. DOUGLAS.

Mortgages—Discharge by surviving Mortgagee.

C. created two mortgages in favour of M. B. and her two sisters to secure repayment of moneys advanced by them. C. then sold portions of the land to D. and E., who had full notice under the Registry Laws that the original mortgages were charges against the property, giving them his covenant against incumbrances. Subsequently, and after the death of the two sisters, C. procured M. B. to execute discharges of these mortgages, giving her a mortgage for \$3,500 on other lands of ample value, by way of security. After the registration of these discharges, he sold the rest of the land comprised in the original mortgages to others. C. afterwards induced M. B. to accept in lieu of the mortgage for the \$3,500 which she discharged, a mortgage upon other lands which were wholly insufficient in amount. Upon the death of M. B. the personal representatives of herself and her sisters filed a bill seeking to charge the land embraced in the original mortgages with the amount remaining due upon these securities.

Held, that the decree of BLAKE, V. C., that the discharges by M. B. were valid and effectual so far as the subsequent purchasers were concerned, as when they received their conveyances and paid the consideration therefor, a discharge by M. B., the person

entitled by law to receive the money, was registered; but that the discharges were inoperative as against C. D. and E. to extinguish the interest of the deceased sisters other than M. B., as the statute refers to payment of the debt in money, and not to the acceptance of another security.

Mowat, Q. C., for appellant.

Bethune and Cox for respondents.

Appeal allowed.

From C. P.]

DONLY v. HOLMWOOD.

Joint Stock Company—Insolvency.

Held, affirming the judgment of the Common Pleas, that the directors of a joint stock company, incorporated under the "Canada Joint Stock Companies' Letters Patent Act, 1869, 32-33 Vict, c. 13, D.," and subject to the provisions of the Insolvent Act of 1875, cannot, without being authorized by the shareholders, make a voluntary assignment in insolvency.

McCarthy, Q.C., for the appellant.

Appeal dismissed.

From Q. B.]

[Jan. 20.

CROSS v. CURRIE.

Promissory note—Accommodation—Endorser—Insolvent holder.

B. one of the defendants who had endorsed a promissory note, made by C, the other defendant, for his accommodation, endorsed another promissory note made by C. for the purpose of renewing the former note. Instead of retiring this note, C. parted with the renewal to the plaintiff, who was aware at the time that B. had been assisting C. in money matters. After the note had been endorsed by C. to plaintiff, C. procured B.'s endorsement of another note at a shorter date, stating that the holders of the original note would not accept the first renewal, and promising to return the latter with the original note. It was found that there was no bad faith on plaintiff's part in taking the note.

Held, affirming the judgment of the Court