

waiting room, and no right of way to the public highway is provided, passengers being obliged to cross the railway tracks. M., on returning from London, to a place about three miles from Lucan, found he could only get to the latter place, owing to a violent snowstorm, and arriving there started to walk to his home, but in going along the track to reach the highway he was struck by a train and killed. In an action by his administrators for damages

Held, that notwithstanding the usage for many years of the tracks by passengers for egress from the train, M. could not be said to be on the track by invitation or license of the company, and the action would not lie. Appeal allowed with costs.

Oster, Q.C., for appellant. *Aylesworth*, Q.C., for respondent.

Nova Scotia.]

MULCAHEY v. ARCHIBALD.

[June 14.

Debtor and creditor—Transfer of property—Delaying or defeating creditors—
13 Eliz., c. 5.

A transfer of property to a creditor for valuable consideration, to prevent its being seized under execution at the suit of another creditor, and with intent to delay the latter in his remedies, or defeat them altogether, is not void under 13 Eliz., c. 5, if the transfer is made to secure an existing debt, and the transferee does not, either directly or indirectly, make himself an instrument for the purpose of subsequently benefiting the transferor. Appeal allowed with costs.

Harris, Q.C., for appellants. *McInnes*, for respondent.

Province of Ontario.

COURT OF APPEAL.

From Rose, J.]

McMILLAN v. MUNRO.

[May 10.

Registry law—Priorities—Mortgage for balance of purchase money.

The plaintiff agreed to sell a parcel of land, one half of the purchase money to be paid in cash and the other half to be secured by a mortgage thereon. A deed and mortgage were prepared and executed, the cash payment made and the deed delivered to the purchaser. The mortgage was delivered to the vendor's agent to be registered. The purchaser had obtained the cash payment from the defendant upon the security of a first mortgage upon the land in question, and this mortgage was prepared, executed and delivered before the execution and delivery of the deed, and was registered before the deed and before the mortgage to the plaintiff. Upon receiving the deed the purchaser handed it to the defendant's agent, who then registered it, the plaintiff's mortgage having in the meantime been also registered. The plaintiff and the defendant acted in good faith, and each without knowledge or notice of the other's mortgage.

Held, that the Registry Act did not apply; that the defendant's mortgage