

thereon for the amount of the debt owing by the caveatee on a seed grain mortgage given by him in 1876 on the N.W. quarter of the same section, basing the claim on the provisions of sec. 18 of 60 & 61 Vict. (D.), c. 29, which is as follows: "In any case in which any settler or purchaser is entitled to the issue of letters-patent for any land to which the said Act (the Dominion Lands Act) relates, but the issue of such patent is delayed because of the liability of such settler or purchaser . . . as mortgagor on a mortgage in favour of the Crown for the repayment of an advance of seed grain, . . . the Minister may cause such letters-patent to issue, . . . and may transmit them to the registrar in whose district the land is situated, with a certificate signed by him or his deputy, . . . setting forth the particulars of such liability or indebtedness . . . the names of the persons liable or indebted therefor, and the land to be charged thereby, and the registrar, when registering the patent for such land, shall make the necessary entries respecting such indebtedness in the proper register or other record book in his office, and thereafter the said indebtedness shall be and remain a charge upon the land until satisfied and extinguished according to law." The provisions of this section were fully complied with except that the registrar failed, through an oversight, to make any entries respecting the indebtedness in the "Abstract Book," or other official record book in his office, but only in a docket or note book in which he kept a record of all applications under the Real Property Act received and examined by him, and which was only a book that he kept for his own convenience as Examiner of Titles, but not one required to be kept under either system of registration.

*Held*, that the indebtedness had not been constituted a charge upon the land in question, and that the petition of the caveator must be dismissed: Maxwell on Statutes, p. 453.

*Held*, also, that under Rule 277 of the Queen's Bench Act, 1895, the caveatee was entitled to his costs to be set off pro tant against his indebtedness to the Crown.

*Howell, Q.C., and Mathers, for the Crown. Aikins, Q.C., and Pitblado, for the caveatee.*

Full Court]. LAKE OF THE WOODS MILLING CO. v. COLLIN. [June 2.

*Garnishment—Claim under fire insurance policy before proofs of loss furnished—Option to replace destroyed property—Queen's Bench Act, 1895, Rule 741 as amended by 60 Vict. (M.) c. 4 and Rule 742.*

Application by defendant to set aside a garnishing order made in Chambers.

Rules 741 and 742 of the Queen's Bench Act, 1895, as amended by 60 Vict., c. 4, authorized the attachment by garnishing order of "all debts, obligations and liabilities owing, payable, or accruing due," not including such as do not arise out of any trust or contract, unless judgment has been