

Com. Pleas Div.]

NOTES OF CANADIAN CASES.

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WILKINS V. McLEAN.

Foreclosure—Misrepresentation.

One H., the mortgagee of certain property, by representing that the property was not worth the amount of the mortgage induced the parties interested in the equity of redemption to part with their estate therein. H. subsequently sold the property for \$5,000. In this suit he endeavoured to realize the amount of the mortgage on which he had advanced \$400, and in default to foreclose.

Held, that H. having acquired the equity of redemption as a trustee he must under the circumstances account for the amount at which he sold it.

Moss, Q.C., for the plaintiff.

Cassels, Q.C., contra.

BRASSERT V. McEWAN.

Sale of goods—Statute of Frauds—Rescission of contract.

After certain goods had been sold and delivered it was discovered that the consignee was in embarrassed circumstances. After negotiations between the consignor's agent and the consignee, the consignee offered in writing to hold the goods subject to the consignor's order which was not accepted in writing by the consignor. The consignor then demanded the goods from the trustee of the creditors and on his refusal to deliver them up brought trover.

Held, that there was no valid agreement to return the goods within the seventeenth section of the Statute of Frauds.

Eddis, for the plaintiff.

George Kerr, junior, contra.

Rose, J.]

ROBBINS V. COFFEE.

Replevin—Pleading.

In an action of replevin the first count of the statement of claim charged the defendant with taking certain goods on the premises known as the "Creemore Woollen Mills"; and the second count with taking certain goods on the premises known as the "N. & N.-W. Railway Station, at the said Village of Creemore."

The defendant for a third plea set up that one W. was tenant to the defendant of certain premises in said village known as "Block B," and certain other premises known as the "Langtry Block"; that rent was in arrear and because of such arrears of rent the defendant well avowed the taking of the said goods on the said premises, and justly so, as a distress for the said rent which still remained due and unpaid.

Held, on demurrer, third plea bad.

D. E. Thompson, for the demurrer.

H. H. Strathy, contra.

Rose, J.]

REGINA V. ARSCOTT.

Vagrant Act—Construction of.

The Vagrant Act, 32 & 33 Vict. ch. 28 D., declares certain persons or classes of persons to be vagrants, and subject to punishment on summary conviction, amongst others "All common prostitutes or night-walkers wandering in the fields, public streets or highways, lanes, or places of public meeting, or gathering of people, not giving a satisfactory account of themselves, all keepers of bawdy houses and houses of ill-fame, or houses for the resort of prostitutes, and persons in the habit of frequenting such houses not giving a satisfactory account of themselves."

Held, that the Act does not declare that being a prostitute, night-walker, keeper of a bawdy house, or frequenter thereof, makes a person a criminal liable to punishment as such; but only when such persons are found at such places under circumstances suggesting impropriety of purpose, and who, on request or demand, are unable to give a satisfactory account of themselves.

Osler, Q.C., and *R. M. Meredith*, for the applicant.

Aylesworth and McKillop, contra.

Rose, J.]

VANDEWATER V. HORTON,

Action—Form of—Mortgage suits—Costs.

In selecting the form of action regard must be had not only to the interests of the plaintiff but also to those of the defendant, and when a simple inexpensive mode of procedure is