From Q. B.] [March 4.

Bacon v. Hayes.

Lease—Covenant not to assign—Breach—Forfeiture—Waiver.

The plaintiff leased land for ten years, from 1st December, 1871, to one D, who covenanted that neither he nor his assigns would assign, transfer or sub-let the premises without the plaintiff's consent in writing first obtained, with a proviso for re-entry. D mortgaged his interest to one H, to secure him against his endorsement of a note for D, the proceeds of which D expended in converting the premises into a race-course and pleasure grounds, and erecting buildings thereon. The note being dishonoured, H informed the plaintiff of the mortgage, and that owing to the plaintiff's absence it had been taken without his consent, whereupon the plaintiff waived all objections on this ground, and declared that he would take no advantage of the omission, and H then paid the note and afterwards expended a large sum in foreclosing the mortgage and improving the premises.

H having foreclosed, advertised the land for lease. One W took possession in 1874 on the understanding that he was to have the place for five years, with the privilege of remaining the whole of the original term, at a rent of $530 a year, and there was to be a written agreement to be drawn up if possible so as not to effect H's lease. W remained ten months and made improvements, and while in possession sub-let part of the land to one C for $300 a year. W gave up possession to H in April, 1875, not being able to obtain the written agreement which had been promised him; and on arbitration with H, the arbitrators awarded to W $524 in full for improvements, "less $224 due for rent," on which basis they settled.

Held, affirming the judgment of the Queen's Bench, that what took place between H and W was a breach of the covenant.

Held, also that the plaintiff had waived the forfeiture caused by the mortgage to H.

McMichael, Q. C. (*Monkman* with him), for the appellant.

S. Richards, Q. C. (*E. Crombie* with him), for the respondent.

From Q. B.] [March 4.

Shannon v. Gore District Mutual Insurance Company.

Double Insurance—Knowledge of Agent—Estoppel.

Held, that the knowledge of a double insurance by the agent did not estop the Company from setting up such double insurance to defeat the plaintiff's claim.

Bethune, Q.C., for the appellant.

Strathy, for the respondent.

Appeal allowed.

From Chy.] [March 4.

Crysler v. McKay.

Sale of land for taxes—Taxes not in arrear for five years—32 Vict., cap. 26, sec. 155.

When it appears that no portion of the taxes on the land have been over due for the period prescribed by the Statute under which the sale took place, the sale is invalid; and the defect is not cured by section 155 of 32 Vict., ch. 36, as it only applies to defects in procedure.

Where there is *prima facie* evidence of arrears, it must be shewn affirmatively that the arrears were not sufficient to authorize the sale.

Bethune, Q.C., for the appellant.

Maclennan, Q.C. for the respondent.

Appeal dismissed.

ELECTION COURT.

Before Patterson, J.A., and Blake, V.C.

[March 1.

Re Lincoln Election.

Voters' list—Income—Description.

Held, that a Judge has no power to add to the voters' list, in the revision thereof, names of persons as voters in respect of income, who were not assessed for income on the last revised assessment roll.

Held, also, that a sufficient description of the real property on which the qualification of a voter depends, must appear on the voters' list in all cases of additions thereto where it does not appear on the assessment roll.

Hodgins. Q.C., for the petitioner.

Bethune, Q.C., for the respondent.

[March 2.

Re Lincoln Election.

Admissions.

The respondent, who was conducting the case, against the claim of the petitioner to the seat, and the attorney and counsel for the petitioner consulted as to the extent to which they could mutually admit without inspection of the ballot papers how certain voters had voted, and as the result they stated to the Re-