

can be transferred by the mortgagee to a purchaser from him only in the manner prescribed by statute. *National Bank of Australia v. United Hand-in-Hand Co.*, 4 A.C. 405, applied; *Greig v. Watson*, 7 V.L.R. 79, referred to.

4. Mortgages of land which is subject to the Torrens or "New System" form of registration in the Province of Manitoba are permitted only in the form specified by the registration statute (the Real Property Act, R.S.M. 1902, c. 148), and the direction in the statutory form which permits of "special covenants" being added thereto is insufficient to cover an added power of sale or other stipulation whereby the mortgagor authorizes the mortgagee to execute an assurance or transfer of the mortgaged property and extinguish the mortgagor's title thereto; such a power of sale or stipulation is not in strictness a "covenant" even if framed as a covenant, and is not within the scope of the statutory form or consistent with the statutory provisions.

5. The "special covenants" which may be introduced into a statutory mortgage under the Torrens or "New System" title registration (the Real Property Act, R.S.M. 1902, c. 148), must not be such as are repugnant to the imperative provisions of the statute itself.

*J. B. Coyne*, for appellant. *C. P. Wilson*, K.C. and *A. C. Galt*, K.C., for respondents.

Ont.]

NATIONAL TRUST CO. v. MILLER.

[March 21.

SCHMIDT v. MILLER.

*Mining Act—Grant of mining land—Reservation of pine timber—Right of grantee to cut for special purposes—Trespass—Cutting pine—Right of action.*

The Ontario Mining Act, R.S.C. 1897, c. 36, as amended by 62 Vict. c. 10, s. 10, provides in s. 39, s.-s. 1 that, "the patents for all Crown lands sold or granted as mining lands shall contain a reservation of all pine trees standing or being on the lands, which pine trees shall continue to be the property of Her Majesty, and any person holding a license to cut timber or saw logs on such lands, may at all times, during the continuance of the license, enter upon the lands and cut and remove such trees and make all necessary roads for that purpose." By the other provisions of the section the patentee may cut and use