

Chan Div.]

NOTES OF CASES.

[Chan. Div.]

and implements on hand and which were there at the death of the testator.

From this direction of the Master the defendants appealed on the grounds that they would be required to bring in an account only of the stock and implements left by the testator and remaining on the lands, and that if any further account was to be furnished it should be only of stock and implements purchased with the proceeds of the sale or obtained by the exchange of the stock and implements left by the testator. The Court, (PROUDFOOT, J.) however, being of opinion that the Master's direction was proper, dismissed the appeal with costs.

H. Cassels, for plaintiff.

Moss, Q.C., for defendant.

Proudfoot J.]

[Feb. 13.]

DICKSON v. CARNIGIE.

Riparian proprietor—Rights to reasonable uses of water.

A mill owner has not the absolute right to the natural and unobstructed flow of the water of a stream over his lands for the use of his mill, but his right is a qualified one and subject to the lawful and reasonable uses of the water by a mill owner above him on the same stream, and this although the user above him may be at times for any extraordinary purpose.

Richie and English, for the plaintiff.

W. G. Cassels, for the defendant.

Ferguson, J.]

[Feb. 13.]

SNARR v. GRANITE CURLING & SKATING CO.

Artificial lateral support—Material thereof—Damages by removal of support—Future damages—Costs.

The plaintiff was entitled to the lateral support by the defendants' land in which they made excavations for the purposes of a rink, whereby the plaintiff's land was damaged:—

Held, that in substituting artificial support, for the material support of soil which had been removed, the defendants might construct it of any material, provided that it was a sufficient support for the time being, and that they continued to maintain the plaintiff's land in its proper position.

Held also, that in estimating the plaintiff's damages past injuries only could be taken into account and no sum should be allowed for damages to arise in future.

The damages were assessed at \$40, but judgment was given for the restoration of the plaintiff's land.

Held, that the plaintiff was entitled to her full costs of suit.

James Beaty, Q. C. and *J. C. Hamilton*, for plaintiff.

W. G. Cassels, and *Brough*, for defendants.

Proudfoot, J.]

[Feb. 13]

VANSICKLE v. VANSICKLE.

Will—Construction of—After acquired property.

The testator owned eighty acres of land and sold a part thereof; subsequently and on the 30th March, 1875, he made his will whereby he devised to his son N. the said eighty acres ("excepting so much thereof as I may have sold and conveyed"). Thereafter and shortly before his death he again acquired the part which he had sold.

Held, that though the will spoke from his death the after acquired property did not pass; for the testator had specified the subject matter of his devise, within which the property in question was not included.

J. Robertson, Q.C., for the plaintiff.

Smythe, for the defendant.

Proudfoot, J.]

[Feb. 13]

BRALEY v. ELLIS.

Chattel Mortgage—Prior advances—Pressure.

Where there is a promise to execute a chattel mortgage, upon the faith of which money is advanced, or where there is a pre-existing duty to give such a mortgage, which is in consequence of pressure subsequently executed, the same is not void within the meaning of the act respecting fraudulent preferences.

Held also, that the doctrine of pressure which obtained before the insolvency laws, now occupies the same position since their repeal.

Gibbon, for the plaintiff.

W. G. Cassels, for the defendant.