"progress of the work *arising from the acts of* "*any of Her Majesty's* agents; and it is agreed "that, in the event of any such delay, the "contractor shall have such further time for "the completion of the work as may be fixed "in that behalf by the Minister."

Held, that this clause covered delay by the Government's engineer in causing an inspection to be made of certain material whereby the suppliant suffered loss.

W. Pugsley, Q.C., for suppliant;

W. B. A. Ritchie for respondent.

Burbidge, J.] [November 28, 1891.

MORIN v. THE QUEEN.

Government railway—Damage to farm from overflow of boundary-ditches—Obligation to maintain same.

The Crown is under no obligation to repair or keep open the boundary ditches between farms crossed by the Intercolonial Railway in the Province of Quebec.

Choquette and *Belcourt* for plaintiff.

Hogg, Q.C., and *Angers* for defendant.

COURT OF QUEEN'S BENCH—MONTREAL.

Receipt given through error—Parol evidence.

S. brought suit to compel *V.* to render an account of the sum of $2,500, which *S.* alleged he paid *V.* on the 6th October, 1885, to be applied to *S*'s first notes maturing, and in acknowledgment of which *V*'s book-keeper gave the following receipt:—"Montreal, October 6, 1885. Recd from Mr. D. S. the sum of $2,500, to be applied to his first notes maturing. M. V. (Fred.)" *V.* pleaded that he never got the $2,500, and that the receipt was given by his clerk by error, and that it should be for a case of sealskins, and not for $2,500. The clerk and other witnesses were examined without objection to prove error.

Held:—That parol evidence is admissible in commercial matters to prove error in a written receipt given by a clerk, and that the evidence in this case proved error.—*Schwersenski & Vineberg*, Dorion, C. J., Cross, Baby, Bossé, JJ., March 22, 1390.

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* To appear in Montreal Law Reports, 7 Q. B.

Promissory note—Transfer without endorsement—Warranty—Laches.

Held:—1. Where a note of a third party is transferred for valuable security, being given in payment of goods purchased, and the note is not endorsed by the transferor, a warranty is implied that the maker is not insolvent to the knowledge of the transferor.

2. If it be proved that the maker of the note was insolvent to the knowledge of the transferor, the party who received it is entitled to offer it back and claim the amount from the transferor, without asking for the rescission of the contract *in toto*.

3. Art. 1530, C. C., does not apply to such a case, and there being no time fixed by law for offering back such note, it is in the discretion of the Court to determine whether there was laches, and whether the transferor was prejudiced by the delay.—*Lewis & Jeffery*, Dorion, C. J., Monk, Taschereau, Ramsay, Sanborn, JJ., June 17, 1875.

Pledge of goods for pre-existing debt—Transfer of bill of lading—R.S.Q. 5646.

Held:—That the transfer of goods, then stored in New York, by a debtor apparently solvent, to his creditor, by endorsement of the bill of lading, as security for an antecedent indebtedness as well as for a note at the time discounted by the creditor, is valid, and the creditor may apply the proceeds of the pledge to the antecedent debt, and recover on the note discounted at the time.—*Watson & Johnson*, Dorion, C.J., Tessier, Baby, Bossé & Doherty, JJ., Nov. 27, 1890.

Sale of goods—Order obtained by commercial traveller—Acceptance.

Held:—In law, and by the custom of trade, the mere taking of an order for goods by a commercial traveller does not complete the contract of sale so long as the order has not been accepted by the principal. And where the latter refuses to accept the order, and gives notice to the person from whom the order was taken, he is not liable in damages.—*Brock et al. & Gourley*, Dorion, C.J., Baby, Bossé, Doherty, JJ., Nov. 27, 1890.