

Sup. Ct.]

NOTES OF CANADIAN CASES.

[Sup. Ct.

Appeal allowed with costs.
Blair, Q.C. (Hogg with him), for appellant.
Laflamme, Q.C. (McIntyre with him), for respondent.

Quebec.]

LEFEBVRE V. CITY OF QUEBEC.

16 *Vict. ch. 100*—30 *Vict. ch. 2, sec. 2*—*North Shore Railway Company—Authority to use streets—Damages—Non-liability of corporation.*

By 16 *Vict. ch. 100, P. Q.*, the North Shore Railway Company was authorized to construct a railway to connect the cities of Quebec and Montreal, with the restriction that the railway was not to be brought within the limits of the city, without the permission of the corporation of the city expressed by a by-law.

In July, 1872, the city council, by resolution, had given to the North Shore Railway Company the liberty to choose one of the streets to the north of St. Francis Street, which had been at one time chosen for that purpose. In 1874 the city council were informed by the company that the company had located the line of the railway in Prince Edward Street; but the corporation did not take any further action in the matter.

In 1875 the company being unable to carry out its enterprise, the railway was transferred to the Government of the Province of Quebec by a notarial deed, and the transfer was ratified by 39 *Vict. ch. 2*, and by that Act the legislature was authorized to construct the road to deep water in the port of Quebec.

After the passing of this Act the Provincial Government caused the road to be completed, and it crossed part of the city of Quebec from its western boundary by passing through Prince Edward Street along its entire length.

The road was completed in 1876. In 1878 L. (the appellant), owner of several houses bordering on P. E. Street, sued the corporation of the city of Quebec for damages suffered on account of the construction and working of the railway. The corporation pleaded no liability.

Held (affirming the judgment of the Court below), that the corporation was not liable.

Appeal dismissed with costs.

Irvine, Q.C., and Larue, Q.C., for appellant.
Pelletier, Q.C., for respondents.

Quebec.]

KNIGHT V. WHITFIELD.

Public company—31 *Vict. ch. 25, ss. 11, 17, 19, 20 (P. Q.)*—*Action for calls—Increased capital—By-law—Insufficient notice.*

In virtue of 31 *Vict. sec. 11, ch. 25 (P. Q.)*, at a meeting of the directors of the St. J. Stone Chinaware Co., a by-law was passed increasing the capital stock of the company by the issue of 250 additional shares of \$200 each, payable by monthly instalments of ten per cent. each. At the general meeting of the shareholders, subsequently held for the election of directors and other business, the said by-law was confirmed.

In an action brought by the assignee of the company (insolvent) against W., an original stockholder and director, for calls on twenty shares of new stock, the only evidence relating to the adoption of the by-law and the calls having been made on W. were the minutes of the meeting of the directors and of the general meeting of the stockholders, and the Superior Court held there had been no calls made. This judgment was affirmed by the Court of Queen's Bench (appeal side), and on appeal to the Supreme Court of Canada it was

Held (affirming the judgments *a quo*), that no calls had been made on W., and therefore he was not liable.

Per FOURNIER and HENRY, JJ., there was no evidence that the by-law had been confirmed by two-thirds of the shareholders in amount at a special meeting called for the purpose of increasing the stock, as provided by 31 *Vict. ch. 25, sec. 11*, and on that ground also the appeal should be dismissed.

Appeal dismissed with costs.

Robertson, Q.C., for appellant.

Geoffrion, Q.C., and Paradis, for respondent.

Ontario.]

HUNTER V. CARRICK.

Infringement of patent—New invention—Combination—Want of novelty.

A patent was obtained for a baker's oven, the patentee claiming as his invention the following:—