insurance—the reasonable import of the form of application and the express provision of the policy agreed in that, but did not make it indispensable that notice should be contained in the application paper. In entire consistency with this was the N. B. at the foot of the interim receipt: "Any existing assurance on the property must be notified at the issuing of this receipt or the contract is void." The agent had verbal notice that there was an insurance, the amount of which the plaintiff could not at the moment state, but which he emphatically insisted on as one to be taken notice of. If what was proved to have been said about it had been written on the face of the application, it would have been out of the question to urge that the want of more particular information made the notice of no avail. It would have been there to be acted on or remitted for further particulars, as the Company chose. It, therefore, seemed indisputable that notice of the existing insurance was given to the agent, the proper person to receive it. If the Company had then done what the receipt intimated was the routine, and either declined the risk or issued a policy, the matter would have been simple. The first case would speak for itself. In the second the plaintiff would have had notice that the continuance of the insurance from henceforth depended not on the notice alone, but on a further act, viz., the mention in or endorsement on the policy, which was at once the stipulated evidence of receipt of a notice, and of the Company's assent to the double insurance.

Appeal allowed.

COURT OF QUEEN'S BENCH—APPEAL SIDE.

Montreal, Dec. 14, 1877.

Present:—Chief Justice DORION and Justices MONK, RAMSAY, TESSIER and CROSS.

THE CANADIAN NAVIGATION CO., (Plffs. below) Appellants; and MCCONKEY (Deft. below) Respondent.

Common Carriers—Loss of baggage—Fire on Passenger Steamer—Liability of carriers—Serment Supplétoire.

Held, that a steamboat company is liable for the value of passengers' baggage destroyed by a fire on the steamer, unless it be clearly proved that the fire occurred from some cause over which the Company had no control.

2. That the Court of Review in the Province of Quebec may send a case back to the Court below, in order that the *serment supplétoire* may be deferred.

On the 10th June, 1872, the minor daughter of McConkey, the respondent, was a passenger on the steamer "Kingston," belonging to the Company, appellants. A fire having occurred on board, the minor's trunk and contents, valued at $142.50, were destroyed. An action was brought for the value of the baggage destroyed and other damages.

The appellants pleaded that the fire happened through *force majeure*, and by no fault of theirs, every precaution to guard against fire having been taken.

The Superior Court dismissed the action, holding that the Company were not guilty of negligence.

In Review this decision was reversed, and the respondent held entitled to recover; but the Court, considering that the value of the trunk and contents was not satisfactorily proved, ordered the record to be sent back to the Superior Court, in order that the *serment supplétoire* of the respondent might be taken as to such value. This was done, and subsequently judgment was entered for the amount so established.

The Company having appealed,

RAMSAY, J., for the Court, remarked that the evidence showed a reasonable amount of care on the part of the appellants, but there was no attempt to show how the fire occurred. The question arose, whether the Court had to consider a fire the result of *force majeure* in all cases where the cause did not appear. This view could not be adopted. The appellants ought to have established something more than they had done; they ought to have shown that it was not through their fault that the fire occurred. As to the principle of the action, the respondent rightly succeeded. As to the amount, the appellants had drawn the attention of the Court to the order of the Court of Review, sending the record back in order that the *serment supplétoire* might be deferred. Under the circumstances this was proper, and the judgment would not be disturbed.

Judgment confirmed.

J. L. Morris for appellants.

Macmaster & Hall for respondent.

NEW PUBLICATIONS.

THE AMERICAN LAW REVIEW, January, 1878. Boston: Little, Brown & Co.

The *American Law Review*, which appears quarterly, has entered upon its twelfth year. It is edited with great care by Messrs. Moorfield