

was "taxation" within the meaning of said agreement and the company was exempt from liability therefor.

Appeal allowed with costs.

*E. P. Allison*, for appellant. *F. H. Bell*, K.C., for respondent.

N.S.] PICKLES v. CHINA MUTUAL INS. CO. [Feb. 18.

*Marine insurance—Mutual company—Cancellation of policy—Return of unearned premium—Cancellation by operation of law.*

A mutual insurance company incorporated under the laws of the State of Massachusetts issued marine policies in favour of parties in Nova Scotia who gave notes for the premiums. The policies provided for a return of premiums "for every thirty days of unexpired time if this policy be cancelled." Before any of the premium notes matured the policy holders were notified that the company had been put into liquidation at the instance of the Insurance Commissioner, the notice stating that the legal effect was "to cancel all outstanding policies." In an action by the receiver in the company's name to enforce payment on the notes:—

*Held*, 1, affirming the judgment appealed against, 46 N.S. Rep. 7, that the decision of the case must be governed by the law of Massachusetts; that the holder of a policy in a mutual company being both insurer and insured, the notes sued on were assets for distribution among the creditors; and the receiver was, therefore, entitled to recover the full amount.

2. A cancellation resulting from the action of the State was not a cancellation within the meaning of the above clause providing for return of premium.

Appeal dismissed with costs.

*Mellish*, K.C., for appellant. *Rogers*, K.C., for respondent.

Ont.] CANADA FOUNDRY CO. v. BUCYRUS. [Feb. 18.

*Trade mark—Geographical name—Right to register—Interference with use.*

A company in the United States engaged in the manufacture of certain articles for use on railways adopted the word "Bucyrus" as their trade mark for use in connection with such goods as distinguished from those manufactured by others,