

who owned eight shares in the barque, claimed the insurance on behalf of themselves and other owners whom they represented, being twenty shares in all.

*Held*, that the insurers were not relieved on account of the value insured not being disclosed at the time of effecting the insurance.

*Held*, also, that V. had authority to give the notice of abandonment under his authority to insure.

Appeal dismissed with costs.

*Weldon, Q.C.*, and *C. A. Palmer*, for the appellants.

*J. G. Forbes*, for the respondents.

[June 14.]

JOHN v. THE QUEEN.

*Criminal law. Rape. Indictment. Conviction for assault with intent to commit.*

An indictment for rape charged the prisoner "violently and feloniously did make an assault on her, the said R., then violently and against her will, feloniously did ravish and carnally know against the form," etc.

*Held*, affirming the judgment of the court below on writ of error, that on this indictment the prisoner could be convicted of assault with intent to commit rape.

Appeal dismissed with costs.

*Robinson, Q.C.*, for the appellant.

*Dr. McMichael, Q.C.*, for the respondent.

## SUPREME COURT OF JUDICATURE FOR ONTARIO.

### COURT OF APPEAL.

MEAD v. O'KEEFE.

*Partnership. Dissolution. Expulsion of members of firm. Good-will, right to purchase-money paid for.*

J. H. M. entered into partnership with the defendant in the business of maltsters and brewers, contributing the sum of \$14,071.80, as his share of the capital stock; and he and the defendant H., each paid to the defendant, O'K., \$12,500 for his good-will in the business.

One of the stipulations in the partnership articles was (No. 3) to the effect that any of the

partners improperly dealing with the moneys or assets of the partnership should be liable to expulsion from the firm by a simple notice from the others or other of them to the effect that the partnership was at an end, in which case the partner so acting improperly should not have any claim for good-will in the partnership.

It was clearly shown that J. H. M., during the period which the partnership had been in existence (about seventeen months), had been in the habit of lending the funds of the firm to his friends, and otherwise so improperly dealing therewith as to have fully justified his partners in giving notice expelling him from the partnership. Instead of doing so, however, they verbally notified him that their partnership must cease, and then with him signed a notice, which was duly published, that the partnership was dissolved by mutual consent.

J. H. M. at the same time executed a transfer of all his interest in the partnership business to his mother, the plaintiff, and she sued for the price paid by him to O'K. for the good-will.

The Common Pleas Division (CAMERON, C.J., dissenting) held the plaintiff entitled to recover the sum so paid; and an appeal from such finding was, owing to an equal division of the judges of this court, dismissed with costs.

*Per* HAGARTY, C.J.O., and OSLER, J.A., while agreeing with the other members of the court that the dissolution had not been effected by the expulsion of J. H. M. under the 3rd clause, the most plaintiff is entitled to is a reference to inquire what was the value of the good-will of J. H. M. in the partnership.

## HIGH COURT OF JUSTICE FOR ONTARIO.

### Practice.

Mr. Dalton.]

[Sept. 14.]

OLDFIELD v. BARBOUR.

*Mechanics' lien. One lien against two owners. Joinder of parties. Summary application in action.*

Four mechanics worked with a contractor for wages upon two buildings owned by differ-