

Q. B. Div.]

NOTES OF CANADIAN CASES.

[Chan. Div.]

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PUBLISHED IN ADVANCE BY ORDER OF THE
LAW SOCIETY.

QUEEN'S BENCH DIVISION.

Osler, J. A.]

**MACLAREN V. COMMERCIAL UNION ASS.
COMPANY.**

*Fire insurance—Damage by removal of goods—
Salvage.*

The plaintiff's stock in trade was insured against loss by fire in the defendant Company. A fire occurred in an adjoining building, and the plaintiff's warehouse being in danger of destruction, he removed his stock which was thereby damaged, and some of it lost.

Held, that there was a loss covered by the policy, and no salvage to which the defendants were liable to contribute under the fifth statutory condition; which declares that in case of removal of the property to escape conflagration the Company will ratably contribute to the loss and expenses attending such act of salvage.

REGINA V. YOUNG.

Liquor License Act—Conviction by two magistrates—Onus of proving license—Imprisonment in default of distress—Selling liquor to Indian.

A conviction under R. S. O. cap. 181, for selling liquor without a license, purporting to be made by three magistrates, but signed by two only, was returned with a *certiorari*.

Held, if an objection at all, a ground for sending back the writ, that the third magistrate might sign the conviction, but not a ground for quashing it.

By R. S. O. cap. 181, sec. 85, where the act or omission complained of is one for which, if the defendant were not duly licensed, he would be liable to a penalty under the Act, the burden of proving that he is licensed is on the defendant:

Held, no objection to a conviction, that it did not show the defendant was not licensed.

A penalty of thirty days' imprisonment in

default of sufficient distress for the fine imposed:

Held good under sections 51 and 59 of the Act.

That the offence was selling liquor to an Indian:

Held, no objection to a conviction under R. S. O. cap. 181; for, if so, the defendant was guilty of two offences, one under the latter Act and one under the Indian Act.

Beck, for motion.

CHANCERY DIVISION.

Boyd, C.]

[Nov. 26.]

LABATT V. CAMPBELL.

Will—Devise to charities—Mortmain—Failure of bequests—Incorporated synods—Power to hold in mortmain.

R. P. L., by his will, directed his executors by and out of the moneys which shall be received by them from the P. B. and M. Co. for or on account of the debt or sum of \$35,000 owing and secured by mortgage by that company to me at the time of my decease, and of the interest, sums of which shall accrue after my decease; in the first place to pay the sum of \$1,500 part thereof to the Bishop, for the time being, of Algoma, in Canada, to be invested by him in or upon any of the investments hereafter authorized with power for the Bishop of Algoma aforesaid, for the time being, from time to time to vary and transpose the investments thereof at his discretion for any other or others of the kind prescribed, and the income of such investments to be applied in and for the education and qualifying of John Eskinah, an Algoma Indian, at present of the Shingwauk Home, Sault Saint Marie, Algoma, aforesaid (heretofore supported by me), as and for a missionary in the Diocese of Algoma aforesaid, for and during and until such time as the Bishop of the said Diocese, for the time being, shall consider sufficiently qualified for such purpose, and upon and after the completion of such education and qualifying, to apply such income as aforesaid forever thereafter, from time to time, in and for the education and qualifying of some other person