

Sup. Ct.]

NOTES OF CANADIAN CASES

[Sup. Ct.]

be ordered to demolish a portion of a large barn, constructed by them over said drain, which, they claim, tended to diminish the use of the servitude and to render its exercise more inconvenient. The appellants, on the present appeal, contended that inasmuch as the barn was built on wooden posts there was no solid floor in the barn, and the drain could be raised up and repaired just as well, if not better, as outside of the barn, there was no change of condition of the servient land contrary to law.

Held, affirming the judgment of the court below, that on the evidence the building of the barn in question aggravated the condition of the premises, and therefore that the judgment of the court below ordering the appellants to demolish a portion of their barn covering the said drain in order to allow the respondents to repair the drain as easily as they might have done in 1843 when said drain was not covered, and to pay \$50 damages, should be affirmed.

GWYNNE, J., was of opinion that all appellants were entitled to was a declaration of right to free access to the land in question for the purpose of making all necessary repairs in the drain as occasion may require, without any impediment or obstruction to their so doing being caused by the barn which had been erected over the drain, and that the action for damages was premature.

Appeal dismissed with costs.

Robertson, Q.C. for appellants.

Geoffrion, for respondents.

P. Q.]

[March 14.]

L'ASSOCIATION PHARMACEUTIQUE DE LA PROVINCE DE QUEBEC V. WILFRED E. BRUNET.

Quebec Pharmacy Act, 48 *Vict. (Q.) ch. 36 s. 8—Construction of—Partnership contrary to law—Mandamus.*

Held, affirming the judgment of the court below, that section 8 of 48 *Vic. ch. 36 (Q.)*, which says that all persons who, during five years before the coming into force of the Act, were practising as chemists and druggists in partnership with any other person so practising are entitled to be registered as licentiates

of pharmacy, applies to respondent, who had, during more than five years before the coming into force of the said act, practised as chemist and druggist in partnership with his brother and in his brother's name, and therefore he (respondent) was entitled under section 8 to be registered as licentiate of a pharmacy.

Appeal dismissed with costs.

Archambault, for appellants.

Geoffrion, for respondent.

P. Q.]

[March 14.]

PARISH OF ST. CESAIRE V. MACFARLANE.

Municipal debentures—Future conditions—Municipal code, art. 982.

Held, that a debenture being a negotiable instrument, a railway company that has complied with all the conditions precedent stated in the by-law to the issuing and delivery of debentures granted by a municipality is entitled to said debentures, free from any declaration on their face of conditions mentioned in the by-law to be performed in future, such as the future keeping up of the road, etc., art. 982, *Municipal Code*, FOURNIER, J., dissenting.

Appeal dismissed with costs.

Geoffrion, for appellants.

O'Halloran, Q.C. for respondent.

P. E. I.]

[March 14.]

SHERREN V. PEARSON.

Statute of Limitations—Title to land—Possession for twenty years—Isolated acts of trespass—Not sufficient to oust owner.

In an action of ejectment the defence was that the land in question was a part of the defendant's lot, and, if not, that the defendant had had possession of it for over twenty years, and the plaintiff's title was consequently barred by the Statute of Limitations. In support of the latter contention evidence was given of cutting lumber by the defendant and those through whom he claimed on the land, but these alleged acts of possession only extended back some seventeen years, with one exception, which was that of an uncle of the