REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT OF CANADA.

Ont.] BOULTBEE *v.* GZOWSKI. [Oct. 13, 1898.

Principal and agent—Broker—Stock Exchange custom—Sale of shares—Marginal transfer—Undisclosed principal—Acceptance—"Settlement"—Obligations of purchaser—Construction of contract—The Bank Act—R.S.C., c. 120, ss. 70-77—Liability of shareholders—Stock jobbing.

The defendant, broker doing business on the Toronto Stock Exchange, bought from C., another broker, certain bank shares that had been sold and transferred to C. by the plaintiff. At the time of the sale C. was not aware that the defendant was acting for an undisclosed principal, and the name of a principal was not disclosed within the time limited for "settlement" of transactions by the custom of the Exchange. The transferee's name was left blank in the transfer book in the bank, but it was noted in the margin that the shares were subject to the order of the defendant who, three days after settlement was due, according to the custom of the Exchange, made a further marginal memorandum that the shares were subject to the order of H. The affairs of the bank were placed in liquidation within a month after these transactions and the plaintiff's name being put upon the list of contributories, he was obliged to pay double liability upon the shares so transferred under the provisions of "The Bank Act," for which he afterwards recovered judgment against C., and then, taking an assignment of C.'s right of indemnity against the defendant, instituted the present action.

Held, that as the defendant had not disclosed the name of any principal within the time limited for settlement by the custom of the Exchange and the shares had been placed at his order and disposition by the seller, he became legal owner thereof, with the necessity of any formal acceptance upon the transfer books, and that as such he was obliged to indemnify the seller against all consequences in respect of the ownership of the shares, and the double liability imposed under the provisions of "The Bank Act."

Appeal allowed with costs.

H. J. Scott, Q.C., for appellant. *Aylesworth*, Q.C., for respondent.

N.B.] COMMERCIAL UNION INS. CO. *v.* TEMPLE. [Nov. 21, 1898.

Fire insurance—Condition in policy—Notice of additional insurance—Liability of assured to give notice.

A policy of insurance against fire contained the following, among other, conditions: