DECISIONS IN COMMERCIAL LAW.

Any subscriber desiring a fuller report of any of these decisions, which are necessarily condensed, has only to address THE MONETARY TIMES.

BURY v. MURRAY.—Verbal evidence is inadmissible to contradict an absolute notarial transfer, even where there is a commencement of proof, by writing not amounting to a full admission. A defendant cannot set up by way of compensation to a claim due to the plaintiff, a judgment purchased subsequent to the date of the action, against one who is not a party and for whom the plaintiff alleged to be a *prete-non*. In an action to recover an amount received by the defendant for the plaintiff, the defendant pleaded *inter alia* that the action was premature, inasmuch as he got the money irregularly from the treasurer of the Province of Quebec on a report of distribution of the prothonotary before all the contestations to the report of collocation had been decided. The Supreme Court of Canada holds, affirming the judgment of the Court of Quebec, that this defence was not open to the defendant, as it would be giving him the benefit of his own improper and illegal proceedings.

FITZGERALD v. CITY OF OTTAWA.—When the plaintiff's land was part of a township he and his neighbors had, with the permission of the township authorities, constructed a box drain to the highway to carry surface water therefrom. After the locality had become part of the defendants' territory, this drain collapsed, and the earth covering of it acted as a dam, which penned back the water upon the plaintiff's land. The defendants' engineer then made a cut which carried away the water for a time. This, however, became filled up, and the water again came on the defendants' land. He notified the defendants, but they did not remedy the matter until after substantial injury was done. Chancellor Boyd decided that they were liable.

ALEXANDER v. WATSON.—A., a wholesale merchant, had been supplying goods to C. & Co., when, becoming doubtful of their credit, he insisted on their account being reduced to $5,000, and on security for further credit. W. was offered as security and gave A. a guaranty in the form of a letter as follows: "I understand that you are prepared to furnish C. & Co. with stock to the extent of $5,000 as a current account, but want a guaranty for any amount beyond that sum. In order not to impede their operations I have consented to become responsible to you for any loss you may sustain in any amount upon your current account in excess of the said sum of $5,000, including your own credit of $5,000, unless sanctioned by a further guaranty." A. then continued to supply C. & Co. with goods, and in an action by him on this guaranty, the Supreme Court of Canada holds, affirming the judgment of the Court of Appeal, that there could be no liability on this guaranty, unless the indebtedness of C. & Co. to A. should exceed the sum of $5,000; and at the time of action brought such indebtedness having been reduced by payments from C. & Co., and dividends from their insolvent estate to less than such sum, A. had no cause of action.

OELRICHS v. TRENT VALLEY WOOLEN MANUFACTURING CO.—C. & Co., brokers in New York, sent a sample of wool to the defendants at Campbellford in Canada, offering to procure for them certain lots at certain prices. After a number of telegrams and letters between the defendants and C. & Co., the offe was accepted by the former, at the pric named, for wool "laid down in New York," and payment was to be in six months from arrival of wool in New York, without interest. Bought and sold notes were respectively delivered to the defendants and the brokers, the latter signing the sold note. The wool having arrived, the defendants would only accept it subject to inspection when it reached their place of business in Canada, to which the seller would not agree, aud it was finally sold to other persons, and an action brought against the defendants for the difference between the price realized on such sale and that agreed on with the brokers. The Supreme Court of Canada holds, affirming the decision of the Court of Appeal for Ontario, that the brokers could be considered to have acted as agents of the defendants in making the contract, but if not, the company having never objected to the want of authority in the brokers nor to the form of the contract, must be held to have acquiesced in the contract as valid and duly authorized. Also, that there being no special agreement to the contrary, the place for inspection of the wool by the buyer was New York, where the wool was to be delivered, and it made no difference that the defendants had previously bought wool from the same person who had sent it to Campbellford to be inspected. Further, that the evidence of a usage of the trade as to inspection offered by the defendants was insufficient, [such usage] not being shown to have been universal and so well known that the parties would be presumed to have had it in mind when making the contract and to have dealt with each other with reference to it.