

the next day he instructed them to comply with an order of the Provincial Board of Health that the eggs were not to be sold anywhere in the province. On the 26th the respondents were notified that if the eggs were not removed from the province they would immediately be destroyed. The respondent company then brought action to restrain the city from further interference with their property, and a temporary injunction was issued which was enlarged from time to time until the action was decided when it was made permanent, the trial judge holding that the eggs were fit for human consumption and the city's proceedings were illegal. His judgment was affirmed by the Court of King's Bench on the ground that there had been no lawful seizure of the eggs and the injunction restrained the city from seizing or interfering with them otherwise than by due process of law. On appeal to the Supreme Court of Canada:—

Held, that the finding of the trial judge that the eggs were fit for human consumption should not be disturbed.

Held, per FITZPATRICK, C.J., DAVIES and IDINGTON, JJ., that the actions of the health officers in exercising the authority conferred on them by law are not final, but are subject to control by the Superior Court.

Held, per FITZPATRICK, C.J., that there was no lawful seizure of the respondents' eggs.

Held, per ANGLIN and BRODEUR, JJ., that the Chief Food Inspector did not exercise his independent judgment in condemning the eggs, but merely followed out the instructions of civic officials and could not claim any protection under the Public Health Act.

Appeal dismissed with costs.

Atwater, K.C., and *Aimé Geoffrion*, K.C., for appellants.
Dale Harris, for respondents.

Ont.]

BOULTER v. STOCKS.

[Feb. 18.

Contract—Rescission—Sale of land—Misrepresentations—Affirmance.

B. advertised for sale his farm in Ontario stating the contents and describing it as in first class condition. He also stated the number of trees, old and new, in the orchard on it. S., then in British Columbia, was shewn the advertisement and, after some correspondence in which B. reiterated the statements therein,