

*Held*, that there was nothing in the bequest to indicate a general charitable purpose, and the gift having been designated for a particular specified body the doctrine of cy-pres did not apply. The nuns have no claim for the use of the money elsewhere than in Halifax, and the permission of the Archbishop being conditional, and there being no sufficient evidence to show that the opening of a house in Halifax is impossible, following *Attorney-General v. Bishop of Chester*, 1 Bro. C.C. 444, an enquiry will be directed to ascertain whether the direction of the testatrix can be carried out.

*H. T. Jones*, for executors. *D. McNeill* and *H. McInnis*, for residuary legatees. *J. A. Chisholm*, for the monastery.

## Province of New Brunswick.

### SUPREME COURT.

Full Bench.]

[Feb. 22.]

PERRY v. LIVERPOOL, LONDON AND GLOBE INSURANCE CO.

*Fire insurance—Misrepresentations in application—Reversal of verdict.*

The defendant company resisted payment on the grounds that plaintiff in the application on which the policy was issued represented that there was no other insurance and no encumbrance on the property, whereas in fact there was other insurance and also a mortgage thereon. The plaintiff claimed, and the jury found, that the answer to the questions contained in the application as to there being no mortgage on the property, was written by the agent of the defendant company without the latter asking plaintiff the question, and the plaintiff signed the application without knowing that it contained the question and answer referred to. As to other insurance the jury found that plaintiff at the time of the application bona fide believed that there was no other insurance on the property. Also that the facts of the mortgage and other insurance on the property were not facts material to the risks. On these findings that trial judge directed a verdict for the plaintiff.

*Held*, on motion for a reversal of the verdict that the misrepresentation complained of and contained in the application signed by the plaintiff discharged the company of liability regardless of the findings of the jury, and that the defendant was entitled to the verdict.

*W. Pugsley*, Q.C., for plaintiff. *C. A. Palmer*, Q.C., for defendant.

Full Court.]

LANG v. BROWN.

[April 19.]

*Notice of motion—When to be given to trial judge.*

The notice of motion provided for in s. 366 of the Supreme Court Act must be given to the trial judge before the opening of the term next following the trial.

*C. A. Palmer*, Q.C., for plaintiff, in support of motion. *J. D. Phinney*, Q.C., contra.