

N.S.] COMMERCIAL BANK OF WINDSOR v. MORRISON. [Feb. 19.

*Banking—Bills and notes—Conditional indorsement—Principal and agent—Knowledge by agent—Constructive notice—Deceit.*

A promissory note indorsed on the express understanding that it should only be available upon the happening of a certain condition is not binding upon the indorser where the condition has not been fulfilled. *Pym v. Campbell*, 6 E. & B. 370, followed.

The principal is affected by notice to the agent unless it appears that the agent was actually implicated in a fraud upon the principal, and it is not sufficient for the principal to shew that the agent had an interest in deceiving his employer. *Kettlewell v. Watson*, 21 Ch. D. 685, and *Richards v. The Bank of Nova Scotia*, 26 Can. S.C.R. 381, referred to. Appeal dismissed with costs.

*J. J. Ritchie*, K.C., for appellant. *Roscoe*, K.C., for respondent.

N.B.] McCLEAVE v. CITY OF MONCTON. [Feb. 19.

*Principal and agent—Police constable—Illegal act—Liability of Municipal corporation—Respondeat superior.*

M. was convicted by the Police Magistrate of Moncton of the offence of keeping liquor for sale in his hotel contrary to the provisions of The Canada Temperance Act. The conviction was quashed on certiorari on the ground that the police officer who laid the information for a search warrant had himself illegally executed such warrant. M. then brought an action against the city claiming damages for unlawful entry into his hotel and carrying off liquors therefrom and for the value of the liquor destroyed under the Act.

*Held*, affirming the judgment of the Supreme Court of New Brunswick, that the police officer was not the agent of the city in executing the warrant though his appointment came from the city; that the city only performed a statutory duty in appointing him and the doctrine of respondeat superior had no application. Appeal dismissed with costs.

*Teed*, K.C., for appellant. *Chandler*, K.C., for respondent.

Que.] BEAUHARNOIS ELECTION. [Feb. 20.

*Trial of petition—Extension of time—Appeal—Jurisdiction.*

On May 25, 1901, an order was made by Mr. Justice Belanger for the trial of the petition against the appellant's return as a member of the House of Commons for Beauharnois, thirty days after judgment should be given on an appeal then pending from the decision on preliminary objections to the petition. Such judgment was given on 29th October, and on the 19th