

Q. B. Div.]

NOTES OF CANADIAN CASES.

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Some time prior to the said explosion, and while the works were idle during the summer months, Watson visited the works. At that time the shaker, a machine used in the manufacture of powder in one of the several buildings composing the works, called the crackers, was out of repair. Watson gave instructions to Corlett, the superintendent, and to Dent, a carpenter employed on the premises, to have this machine repaired prior to commencing operations. The machine was not repaired, through the neglect of the superintendent or through the company having sent orders to be filled before the repairs could be made.

Held, that though the superintendent's neglect was the neglect of a fellow-workman, yet Watson, a director, having given express instructions to have the repairs made, Corlett's neglect to repair the shaker was the neglect of the company, and the defendants were liable.

Robinson, Q. C., and E. Martin, Q. C., for motion.

Fullerton, contra.

RYAN V. BANK OF MONTREAL.

Bills and notes—Disoppel—Forgery.

The plaintiff made an arrangement in Toronto with one Hamilton Young, an employe of the Hamilton Cotton Company, to discount their draft on J. P. Billings & Co., of New York, for \$4,989.65, at three months, and in pursuance of this arrangement a draft was drawn in Hamilton, by Hamilton Young, in the name of the Hamilton Cotton Company, on the plaintiff, payable on demand to their own order for \$4,800, dated 23rd July, 1883. This draft was taken by Hamilton Young to the defendants' banking house at Hamilton, and there discounted by him and the proceeds of the discount drawn in cheques in the name of the company. The draft was then forwarded by the defendants to their house in Toronto, who presented the same to the plaintiff for acceptance and payment. The plaintiff then discounted the first mentioned draft with the defendants at Toronto, and with the proceeds paid the draft for \$4,800. The plaintiff, about the 11th September, 1883, discovered that both drafts had been forged by Hamilton Young,

and immediately notified the defendants of the forgery and demanded payment of the amount of the demand draft, which payment the defendants refused. The plaintiff paid the first mentioned draft at maturity.

Held, that although the plaintiff, by acceptance and payment, was estopped from disputing the signature of the drawers, the Hamilton Cotton Company, to the bill, yet he was not estopped from denying their signature as endorsers, even though it was on the bill at the time of acceptance and payment.

Held, also that the defendants, having no title to the bill, the endorsement being a forgery, were not entitled to receive payment, and having been paid, the plaintiff was entitled to recover the amount so paid.

Held, also that the plaintiff was not estopped by his delay in discovering the forgery, there being no actual genuine party on the bill to whom the defendants might have recourse, and having lost no remedy by such delay.

MacLennan, Q. C., and Haverson, for motion.
Bruce, Q. C., contra.

RE SUMERFELDT V. WORTS.

Gambling debt—Prohibition—Note of hand—Division Court Act.

A note given in settlement of losses at matching coppers is a note of hand given in consideration of gambling debt within sec. 53, subsec. 3, R. S. O., ch. 47, and such a security is void under 9 Anne, ch. 14, even in the hands of a *bona fide* holder for value.

Upon proceedings being taken in the Division Court in an action in which that court has not jurisdiction, the defendant is entitled to prohibition immediately upon the action being brought and the fact of no notice of statutory defence being given under sec. 92 of R. S. O., ch. 47, does not affect the defendant's right to prohibition.