

On the merits the judgment of ROBERTSON, J. refusing to order the arbitrator to state a case was affirmed.

S. H. Blake, Q.C., and W. Cassels, Q.C., for appellants. Johnston, Q.C., for respondents.

From Armour, C.J.] COUNTY OF SIMCOE v. BURTON. [Oct. 4.
Principal and surety—Bond—Municipal treasurer—Audit—Representations.

The treasurer of a county for a number of years embezzled county funds, and by manipulation of his books deceived the county auditors who, from year to year, reported in good faith that his accounts were correct, and the council in good faith adopted the reports. While, in fact, in default to a large amount, the defendant, who was a ratepayer resident in the county and a relative of the treasurer, became, at his request, one of his sureties, and at the time was told in good faith by some of the county officials that the treasurer's accounts were correct:

Held that the auditors' reports so adopted by the council were not implied representations by the council, the incorrectness of which discharged the defendant.

Held also, that the statements made by the county officials did not bind the council, and that even if they did, having been made in good faith, they formed no defence.

Judgment of ARMOUR, C.J., reversed.

Osler, Q.C., and J. A. McCarthy, for appellants. Aylesworth, Q.C., and W. A. Boys, for respondent.

From Rose, J.] KERR v. LITTLE. [Oct. 4.
Easement—Right of way—Prescription—Landlord and tenant—Acknowledgment by tenant.

After a right of way had been enjoyed for more than the period necessary to obtain title thereto by prescription the tenant of the dominant tenement, without the knowledge of the owner, gave to the owner of the servient tenement two pairs of shoes as consideration for the exercise of the right:

Held, that even if an act of this kind could in any event affect the right that had been acquired, the owner of the dominant tenement was not bound by what the tenant did without his authority.

Judgment of ROSE, J., affirmed.

DuVernet and Millican, for appellant. Aylesworth, Q.C., for respondents.

From Armour, C.J.] [Oct. 4.
GREAT NORTHERN TRANSIT COMPANY v. ALLIANCE INSURANCE CO.
Insurance—Marine insurance—Construction of policy—Condition.

The defendants insured a vessel for a stated period, "whilst running on the inland lakes, rivers and canals during the season of navigation, to be laid up in a place of safety during winter months from any extra hazardous building." At the time of the issue of the policy the vessel was at a dock in inland