the balance, unless the net revenue of the company should be sufficient to pay the charges for interest, insurance, etc., and not merely that the claim for interest should be postponed. *Cross & The Windsor Hotel Co. of Montreal*, Dorion, C. J., Monk, Ramsay, Tessier, Baby, JJ., September 25, 1885.

Fire Insurance—Powers of Agent—Interim Receipt—Non-issue of Policy—Conditions—Notice of other Insurance.

HELD:—That the agent of an insurance company has no authority to accept an insurance and give a receipt for the premium in exchange for a receipt for his individual debt to the person insuring, and such act on his part will not bind the company. *Citizens Insurance Co. of Canada & Bourguignon.* Dorion, C. J., Ramsay, Tessier, Cross, Baby, JJ., Jan. 25, 1886.

Master and Servant—Damages—New Trial—Exclusion of Testimony—Partiality of Jury.

HELD:—1. An employer is responsible for the damages suffered by an employee through the negligence or want of skill of a fellow employee.

2. (Following *Ravary & G. T. R.*, 6 L. C. J. 49,) A direction to the jury that anguish of mind suffered for the loss of a husband may properly be taken into consideration by them in estimating the damages which should be allowed to the widow, is not erroneous.

3. Where a witness arrived after the evidence at the trial was closed, but before the jury were charged, the exclusion of his testimony was not in itself a sufficient ground for allowing a new trial; but the Court will look to the relevancy and importance of the evidence which the witness was prepared to give, and where the affidavit of such witness is before the Court, and the testimony which he proposed to give does not appear to be relevant or material, a new trial will not be ordered on the ground that the evidence was excluded.

4. The fact that one of the jury, in the course of the trial, put a question to a witness which appeared to indicate a leaning to the side of the plaintiff, and the further circumstance that the jury presented her with their own taxed fees after the verdict was rendered, are not such indications of bias or partiality as to constitute grounds for a new trial.—*Robinson & Canadian Pacific Ry. Co.* Dorion, C. J., Ramsay, Cross, Baby, JJ., Jan. 16, 1886.

Charter-party — Time — Rejection of contract.

The appellant, in January 1879, agreed to charter a steamship, for the carriage of live cattle to England, and the conditions of the charter-party were that the ship should proceed to Montreal with all convenient speed, to arrive there "between" the opening of navigation of 1879, and thereafter to run regularly between Montreal and London, and to be dispatched from Montreal in regular rotation with other steamers under charter of the same charterer, to be chartered up to 1st October, 1879. Navigation opened at Montreal about 1st May, but the steamship did not arrive there until 18th May, when the appellant refused to load.

Held (following *McShane & Henderson*, M. L. R., 1 Q. B. 264) that there was not a substantial compliance with the contract on the part of the ship, and the appellant was entitled to throw up the charter-party. *McShane*, Appellant, & *Hall et al.*, Respondent, Dorion, C.J., Monk, Ramsay, Cross, Baby, JJ., Sept. 25, 1885.

Substitution—Within what limits it may be created—C. C. 932—Accretion.

HELD:—Confirming the judgment of the Superior Court (M. L. R., 2 S. C. 23), that by the old jurisprudence introduced into this province, and which was not affected in this particular by the Imperial Statute of 1774 (14 Geo. III, c. 83), but was still in force in August 1798, when the will in question was made, a substitution created by will was limited to two degrees exclusive of the institute.

2. Degrees of substitution are counted by heads ("par têtes") and not by roots ("par souches"). When the share of one among several who took conjointly passes to the others by his death, such transmission is reckoned an additional degree as regards the