

Held, affirming the decision of the Court of Appeal for Ontario (20 A.R. 564), that, by the failure to pay the part of the premium as agreed by the overdue instrument, the policy was void.

Appeal dismissed with costs.

Wilkes, Q.C., for the appellant.

Aylesworth, Q.C., for the respondents.

Ontario.]

[May 23.

SNETZINGER v. PETERSEN.

Arbitration and award—Submission—Question of fact—Second award—Arbitrator functus officii.

S. and P. were engaged in business together, under a written agreement, in the packing and selling of fruit, and, a dispute having arisen as to the state of account between them, a third party was chosen to enable them to effect a settlement. S. claimed that such third party was only to go over the accounts and make a statement, while P. contended that the whole matter was left to him as an arbitrator.

The arbitrator, having gone over the accounts, made out a statement showing \$235 to be due to S. Some time after he presented a second statement, showing the amount due to be \$286. S. was given a cheque for the latter amount, which he claimed to be only taken on account, and he afterwards brought an action for the winding up of the partnership affairs.

Held, affirming the decision of the Court of Appeal for Ontario, that whether or not there was a submission to arbitration was a question of fact as to which this court would not interfere with the finding of the trial judge that all matters were submitted, confirmed as it was by the Divisional Court and Court of Appeal.

Held, further, that there was a valid award for \$235; that, having made his award for that amount, the arbitrator was *functus officii*, and the second award was a nullity; and that the Divisional Court was wrong in holding that, as P. relied only on the second award, the judgment should be against him on the case as claimed by S.

Appeal dismissed with costs.

Riddell for the appellant.

McCarthy, Q.C., for the respondents.

Quebec.]

HUNT v. TAPLIN.

Appeal by defendant—Amount in controversy—Pecuniary interest—R.S.C., c. 135, s. 29.

The plaintiff, who had acted as agent for the late M.S., brought an action for \$1,470 for a balance of account as *negotiorum gestor* of M.S. against the defendants, executors of M.S. The defendants, in addition to a general denial, pleaded compensation for \$3,416 and interest. The plaintiff replied that this sum was paid by a *dation en paiement* of certain immovables. The