

*Held*, Gwynne and Patterson, JJ., dissenting, that as the Court took upon itself the decision of the questions of fact in this case without any legal or other authority therefor, than the consent and agreement of the parties, they acted as quasi-arbitrators, and the decision appealed from was that of a private tribunal constituted by the parties, which could not be reviewed in appeal or otherwise, as judgments pronounced in the regular course of the ordinary procedure of the Court may be reviewed and appealed from.

*Held*, also, that if the merits of the case were properly before the court the judgment appealed from should be affirmed.

*Held*. per Gwynne and Patterson, JJ., that the case was appealable; and on the merits, it appearing from the evidence that the servants of the company had done everything required by the statute to give notice of the approach of the train, the appeal should be allowed and a judgment of non-suit entered.

Appeal quashed with costs.

*Weldon, Q.C.*, for appellants.

*Skinner, Q.C.*, for respondent.

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New Brunswick.]

PETERS v. CITY OF ST. JOHN.

*Assessment and taxes—Insurance company—Net profits—Deposit with Government—Statement to assessors—Variance from form.*

By sec. 126 of the St. John City Assessment Law, 1889, (52 V. c. 27) the agent or manager of any Life Insurance company doing business out of the Province is liable to be assessed upon the net profits made by him as such agent or manager from premiums received on all insurances effected by him; and the better to enable the assessors to rate such company, the agent or manager is required to furnish at a certain time in each year a statement under oath in a prescribed form, setting forth the gross income and particulars of the losses and deductions claimed therefrom, and showing the ratable net profits for the preceding year.

By the form prescribed, the deductions to be made from the gross income consist of re-insurance, rebate, etc., actually paid, and amounts paid on matured claims on policies issued by such agent or manager. In the form presented by the agent of a Life Insurance company in St. John, N. B., there was no amount