## DECISIONS IN COMMERCIAL LAW.

GARNEY v. THE SECOND NATIONAL BANK OF PROVIDENCE.—The Supreme Court of the United States holds that among creditors equally meritorious a debtor may conscientiously prefer one to another, and it can make no difference that the preferred creditor is his wife. Whenever a husband acquires possession of the separate property of his wife, whether with or without her consent, he must be deemed to hold it in trust for her benefit in the absence of any direct evidence that she intended to make a gift of it to him. Where a husband purchases property as the agent of his wife, and with her money, under an agreement between them that the property is to be deeded to her, and then without her knowledge causes the same to be deeded to himself, he holds the property in trust for her; and if he afterwards conveys the property to her before the rights of his attaching creditors have intervened, such conveyance is good as against his creditors, unless she has herself been guilty of fraud as to them which would estop her from claiming the property.

THE IMPERIAL FIRE INSURANCE COMPANY OF LONDON v. THE COUNTY OF COOS.—If the insured cannot bring himself within the conditions of the policy he is not entitled to recover for loss. When an insurance contract is fairly susceptible of two different constructions, that construction will be adopted which is most favorable to the insured. Contracts of insurance, if they are clear and unambiguous, are to be taken and understood in their plain, ordinary and popular sense. Where the condition in the policy is that it shall be void and of no effect if "mechanics are employed in the building altering or repairing the premises named herein," without notice to or permission of the insurance company, its violation by the insured terminates the contract of the insured, and it cannot be thereafter made liable on the contract without having waived that condition, merely because in the opinion of the court and the jury the alterations and repairs of the building did not in fact increase the risk. An instruction of the court to the jury which gave no validity or effect to such condition, and its breach, but made it depend upon the question whether the acts done in violation of it, in fact, increased the risk, and whether such increased risk was operative at the date of the fire, was erroneous. Such is the holding of the Supreme Court of the United States.

SHAUER v. ALTERTON.—The United States Supreme Court says that the confidential business statement made by a person to a commercial agency which concealed his alleged liability to his brother, then existing, is admissible upon the inquiry whether he was in fact indebted to his brother to the full extent claimed by the latter. Whatever is notice enough to excite attention and put the party on his guard, and call for inquiry, is notice of everything to which such inquiry may lead.

BRAUN v. DAVIS.—This was an appeal to a single judge from an order of the referee dismissing a summons taken out by defendant to set aside a garnishing order. The garnishees were the Northern Assurance Co. and the United States Fire Insurance Co., and the moneys sought to be attached were payable on a loss by fire which had taken place of property insured by them. The objections taken by the defendant were: "That according to the terms of both policies the insurance moneys were payable to the defendant and his wife jointly. 2. That neither company could be said to be carrying on business in this province, so as to be treated as within the jurisdiction of the court. The plaintiff contended that the first objection was not open for the defendant to take, but that it should be left for the garnishees to suggest that some other person was entitled to the money. With regard to the second objection, it appeared that the head office for Canada of the Northern Assurance Company was in Montreal, that it had no office in the Province of Manitoba, but certain persons here received applications for insurance which were sent to the head office, where they were accepted or rejected. The local agents had power to grant an interim insurance until the decision of the head office should be known and to receive the first premiums. The policy was issued at Montreal, the renewal premiums were payable there, and the amount insured was also payable there. In the case of the United Fire Insurance Company the policy was issued at Winnipeg; to be valid, it had to be countersigned by the agent of the company at Winnipeg, and it purported to be so. Taylor, J., of Manitoba, held that the garnishee order must be set aside as to both companies, on the ground that the moneys sought to be attached were payable to the defendant and his wife jointly. Also that as to the Northern Assurance Co., it could not be said to be carrying on business within the Province, and was not therefore within the jurisdiction of the court for the purpose of garnishee proceedings; but that the United Fire Insurance Co. was within the jurisdiction of the court and it was carrying on business through an agency here.

BURDETT v. CANADIAN PACIFIC RAILWAY CO.—The plaintiff's claim was for the loss of goods shipped to him at Emerson over the defendants' railway, which were destroyed by fire while still in the car. The car arrived at noon on the 30th June, 1893. According to the evidence of the station agent who was called as a witness for the plaintiff, it was customary for consignees to take delivery of goods directly from the car and to remove them the same day as they arrived, and he only sent post cards notifying them of the arrival of their goods to those who removed them themselves; but in the case of those who usually employed a drayman, he only gave a verbal notice to either Brooks or Hill, the two draymen who did such work "that there was some freight to be delivered." On this occasion he gave such a notice to Hill. It did not appear that the plaintiff had received the notice, but he had no reason to expect any other or better kind of notice. He was out of town that afternoon, and the fire took place during the following night. It was supposed that it originated in the furnace of the elevator which was burned down, and the car standing near was also consumed. The plaintiff claimed that the defendants were liable as common carriers; and if not that they were guilty of negligence in placing the car so near the elevator and away from the freight shed. The judge of the County Court found the defendants guilty of negligence, and entered a verdict for the plaintiff. The Court of Queen's Bench, of Manitoba, held, that under the circumstances, the customary verbal notice to the drayman was sufficient notice to the plaintiff of the arrival of the goods, and that a reasonable time had elapsed for such notice to reach the plaintiff, and for him to remove the goods; that the *transitus* was at an end, and the liability of the defendants as common carriers had ceased; and that the fire took place after this, and the evidence did not warrant the finding that the defendants had been guilty of negligence in leaving the car where they did; they were not liable for the goods in question.