the Crown's consent, and could only be warranted by affirming the invalidity of the Act of Incorporation, which would be opposed to what has been stated in the previous part of this judgment to be their Lordships' view; or at least by affirming that the Company, in exercising its powers in the province, must necessarily violate the provincial law, which, as already shown, is not a necessary consequence.

In the result, their Lordships will humbly advise Her Majesty to reverse the judgment under appeal, and to order that the judgment of the Superior Court be affirmed, and that the present Appellant's costs of the appeal to the Court of Queen's Bench in Canada be paid by the present Respondent. The Appellant must also have the costs of the appeal to Her Majesty.

Judgment reversed.

Henry Mathews, Q.C., W. W. Robertson, Q.C., (of the Quebec bar), and *McLeod Fullarton* for the appellants.

Gibbs, Q. C., Girouard, Q.C., (of the Quebec bar) and *Tudor Boddam* for the respondent.

SUPERIOR COURT.

MONTREAL, October 31, 1883.

Before JOHNSON, J.

MENARD v. PELLETIER.

Obligation with term—Insolvency of lessee—1092 C. C.

Under C. C. 1092, *the mere fact of insolvency causes the debtor to lose the benefit of the stipulated term, independently of the question of diminished security; hence rent not yet exigible by the terms of the lease becomes so by the insolvency of the tenant though the gage be not diminished.*

PER CURIAM.—The action is for rent, with process of *saisie gagerie*, and the amount due at the time of instituting the action was only $40; but a larger sum, $364.50, to become due by the terms of the lease, was asked on the ground of the defendant's notorious insolvency. The defendant, interrogated on *faits et articles*, admitted the whole case; but it was ingeniously suggested by the counsel for the defendant that rent not actually due and exigible by the terms of the lease did not become so by the insolvency of the debtor, on the supposition that the *gage* or security for the rent was not diminished; and this point was raised by a demurrer which was reserved; but I entirely agree with the decision in *Hamilton* v. *Valade* (30 Nov. 1882, Jetté, J.,) and which was confirmed in review, that Art. 1092 C. C. makes the debtor lose the benefit of the stipulated term by the mere fact of insolvency, independently of the question of diminished security for the rent.

Judgment for plaintiff.

Cressé & Cressé for plaintiff.

Duhamel & Rainville for the defendant.

RECENT ENGLISH DECISIONS.

Maritime law—peril of sea—bill of lading—carrier—A collision between two vessels, brought about by negligence of either of them, without the waves or wind or difficulty of navigation contributing to the accident, is not "a peril of the sea" within the terms of that exception in a bill of lading. Ct. of App., March 21, 1883. *Woadley* v. *Michell.* Opinion by Brett, Cotton and Bowen, L. JJ. (L.R., 11 Q. B. D. 47.)

Negligence—of contractor in building causing party-wall to fall—owner's liability.—The appellant and respondent were owners of adjoining houses between which was a party-wall, the property of both. The appellant's house also adjoined B.'s house and between them was a party-wall. The appellant employed a builder to pull down his house and rebuild it on a plan which involved the tying together of the new house and the party-wall between it and the respondent's house, so that if one fell the other would be damaged. In the course of the rebuilding the builder's workmen in fixing a staircase negligently and without the knowledge of the appellant cut into the party-wall between the appellant's house and B.'s house, in consequence of which the appellant's house fell, and the fall dragged over the party-wall between it and the respondent's house and injured the respondent's house. The cutting into the party-wall was not authorized by the contract between the appellant and his builder. *Held*, affirming the decision of the Court of Appeal, that the