

Ct. of App.]

NOTES OF CANADIAN CASES.

[Q. B. Div.]

bank; and it is from the holder of the warehouse receipt therein referred to that the bank is allowed to acquire the document in security on certain conditions for advances.

MacLennan, Q.C., and *Kingsford*, for the appellant.

Robinson, Q.C., and *J. F. Smith*, for the respondents.

From C.P.]

[Feb. 19.]

QUINLAN v. THE UNION FIRE INS. CO.
Fire Insurance—Diagram and report by agent.

By an addition to the second statutory condition on the policies of the defendant company it was provided that "such application or any survey or description of the property to be referred to herein shall be considered a part of this policy, and every part of it a warranty by the assured; but this company will not dispute the correctness of any diagram or plan prepared by its agent, from a personal inspection," and by a variation of another condition it was provided that if any agent of the company took "part in the preparation of this insurance he shall, with the exception above provided for of a diagram or plan, be regarded in that work as the agent of the applicant." In the application prepared and signed by the agent the existence of a small building, used for storing coal oil, had not been mentioned as required by the company, neither was any reference made to it in the diagram prepared by the agent, who passed the premises daily and was quite familiar with the state of the property, and which was prepared by him from inspections made on previous applications.

Held, [reversing the judgment of the Common Pleas, 31 C. P. 618,] that the company was not at liberty to set this up as a defence, and judgment was ordered to be entered up for the full amount of the policies; and, per *ARMOUR*, J., interest should be allowed thereon to be computed from the date of the verdict being rendered.

Bethune, Q.C., and *Dixon*, for the appellant.

McCarthy, Q.C., and *A. Gall*, for respondent.

QUEEN'S BENCH DIVISION. IN BANCO.

REG. EX REL. NASMITH v. TORONTO.

By-law—A seizure of bread—Stamping loaf.

A by-law enacting that bread shall be of a given weight, which shall be stamped on the loaves sold, and that all bread sold not complying with such by-law shall be seized and forfeited, is good.

Rose, Q.C., for relator.

McWilliams, contra.

VOGEL v. G. T. RAILWAY CO.

Railway Act, 1879—Live stock—Special conditions—Owner's risk—Loss by negligence.

Plaintiff shipped cattle on defendant's railway, subject to the conditions of a bill of lading, which specified that live stock were at owner's risk of loss, etc., in loading or unloading, or otherwise. . . Live stock carried by special contract only. The cattle having been lost by defendants' negligence,

Held, that defendants were liable, notwithstanding their conditions, for by 42 Vict. ch. 9, sec. 25, sub-sec. 4, their liability was expressly provided for.

Dickson, Q.C., for plaintiff.

Bethune, Q.C., contra.

MILLOR v. HAMILTON AND WIFE.

Mortgagor and Mortgagee—Statutes of Limitations—Acknowledgement—Insolvent Act of 1864—Trustee and c. q. t.—Possession of husband and wife.

A being seized of land subject to a mortgage to L. dated 14th October, 1863, and to one to M. dated 12th January, 1864, made an assignment to W. on 22nd November, 1866, under the Insolvent Act of 1864. On 28th January, 1868, he obtained his discharge. On 27th January, 1869, he obtained from M. an assignment of M.'s mortgage; and on 3rd May, 1869, he made a conveyance under the power of sale in this mortgage to F. H. to the use of his (the grantor's) wife, his co-defendant, the consideration mentioned being \$250, which was credited on the mortgage.

On 12th April, 1869, L. assigned his mortgage to M. B., who, on 25th March, 1873, as-