

N.B.]

NORWICH UNION FIRE INS. CO. v. LEBELL.

[May 30.

*Fire insurance—Application—Ownership of property insured—
Misrepresentation.*

A condition indorsed on a policy of insurance against fire provided that if the application for insurance was referred to in the policy it would be considered a part of the contract and a warranty by the insured, and that any false representation by the assured of the condition, situation or occupancy of the property, or any omission to make known a fact material to the risk, would avoid the policy. In the application for said policy the insured stated that he was sole owner of the property to be insured and of the land on which it stood, whereas it was, to his knowledge and that of the sub-agent who secured the application, situated upon the public highway.

Held, reversing the judgment of the Supreme Court of New Brunswick, that as the application was more than once referred to in the policy, it was a part of the contract for insurance, and that the misrepresentation as to the ownership of the land avoided the policy under the above condition.

Wallace Nesbitt and C. J. Coster, for appellants. *J. B. M. Baxter*, for respondent.

EXCHEQUER COURT OF CANADA.

Burlidge, J.]

THE QUEEN v. BLACK.

[March 6.

*Postmasters' bond—Validity—Breach—Primary obligation—Release of
sureties—Laches of government officials—Estoppel—Effect of* 33
Henry VIII., chap. 39, sec. 79.

In a case in the Province of Quebec upon a postmaster's bond, the principal and sureties were each bound in the penal sum of \$1,600, and the condition of the obligation was that if the principal faithfully discharged the duties of his office and duly accounted for all moneys and property which came into his custody by virtue thereof, the obligation should be void. The bond also contained a provision that it should be a breach thereof if the postmaster committed any offence under the laws governing the administration of his office. It was objected by the sureties against the validity of the bond that it contained no primary obligation, the principal himself being bound in a penal sum, and that the sureties were therefore not bound to anything under the law of the Province of Quebec.

Held—1. That there was a primary obligation on the part of the principal inasmuch as he undertook to faithfully discharge the duties of his office, and to duly account for all moneys and property which might come into his custody.

2. That as the bond conformed to the provisions of An Act respecting the security to be given by officers of Canada (31 Vict., c. 37; 35 Vict., c.