

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

N. S.]

C. P. R. Co. v. SMITH.

[May 18.]

Negligence—Railway company—Injury to passenger in sleeping berth.

S., an elderly lady, was travelling on a train of the C. P. Ry. Co. from Montreal to Toronto. While in a sleeping berth at night, believing that she was riding with her back to the engine, she tried to turn around in the berth, and the car going round a curve at the time, she was thrown out on to the floor and injured her back. On the trial of an action against the company for damages it was not shewn that the speed of the train was excessive, or that there was any defect in the roadbed at the place where the accident occurred to which it could be attributed.

Held, reversing the judgment of the Supreme Court of Nova Scotia, that the accident could not be attributed to any negligence of the servants of the company which would make it liable in damages to S. therefore. Appeal allowed with costs.

Nesbitt, K.C., and *Harris*, K.C., for appellant. *Drysdale*, K.C., for respondent.

Ont.]

KING v. BAILEY.

[May 21.]

Statute of Limitations—Criminal conversation—Damages.

The Statute of Limitations is not a bar to an action for criminal conversation where the adulterous intercourse between defendant and plaintiff's wife has continued to a period within six years from the time the action is brought.

Quere. Does the statute only begin to run when the adulterous intercourse ceases or is the plaintiff only entitled to damages for intercourse within the six years preceding the action? Appeal dismissed with costs.

Lobb, for appellant. *Heyd*, K.C., for respondent.

Ont.]

IMPERIAL BANK v. BANK OF HAMILTON.

[May 21.]

Marked cheque—Fraudulent alteration—Payment by third party—Liability for loss—Negligence.

A man dealing with others is under no duty to take precautions to prevent loss to the latter by the criminal acts of third persons' and the omission to do so is not, in itself, negligence in law. B. having an account for a small amount in the Bank of Hamilton had a cheque for five dollars marked good, and altering it, so as to make it a cheque for \$500, had it