tried to pass beneath some wires above and was killed. On trial it was shown that he himself had on special instructions several months previous placed that particular wire in place—also that his death resulted through several inches of the wire lacking insulation—but it could not be proved how long it had been without such insulation.

The point of the case was as to whose duty it was to see to that particular wire—if the duty was upon him then he came to his death through an act involving negligence on his own part and his widow could not recover; but if his duties related only to lines outside the power-house the company would be liable. The evidence of all parties showed he had always been a most careful and efficient man, which shows improbability that he neglected to insulate the wire or to inspect it later. Only two men were over him, the head mechanic and the superintendent. The first could not speak as to duties of deceased: the superintendent engaged him and said "he had charge of all the linemen and work around the power house." The court said that as the death arose from a defect in part of the plant the company was liable unless they could prove the defect existed through negligence of the deceased. Now the only evidence they can adduce as to his being responsible for, or in charge of the lines inside the house is that of some specific occasions, when he did particular work inside the building, and on each of these occasions he acted upon special instructions from one or other of his superiors.

Held, there is no sufficient evidence of negligence on part of the deceased; judgment for the plaintiff. 40, S.C.R. 181.

Breach of Contract—Measure of Damages.

Battle vs. Willox—

The defendant Willox was the owner of certain gravel lands in the County of Welland, Ontario; as he lacked capital to develope same he approached the plaintiff Battle, who gave him the assistance asked for, upon obtaining an agreement under which Willox undertook to secure contracts for supplying sand to some five large companies doing business in the locality, and Battle was to be entitled to one-fourth of the profits arising from the business—if either party desired to sell his interest the other party to have first opportunity to purchase. Operations were commenced—two of the contracts spoken of were secured and carried out, but when some three months later the defendant got a good offer of purchase at $35,000, he accepted the same without notice to Battle. He then repaid the moneys advanced by Battle and notes endorsed by the latter and ceased business altogether.

The plaintiff brings this action for damages, and claiming his share of the profits that would have been earned if the five contracts had been entered into and duly carried out.

Held, that the defendants undertaking to secure the five contracts, at least, was absolute, and as by the sale he put it out of his power to perform same he is liable to the plaintiff, who is entitled to damages. The amount of which will be determined by supposing that those five contracts were obtained and carried out, whereupon the plaintiff would have received one-fourth of the profits. 40, S.C.R. 198.

Principal and Agent—Secret Profit.

Fleming vs. Hutchinson—

This case, tried some months ago in British Columbia, has again come up on appeal before the Supreme Court of Canada. The plaintiff went to defendant, a real estate broker in Vancouver and inquired for investments in that city, whereupon the defendant recommended two lots he had listed at certain prices, and plaintiff agreed to buy same, but any brokerage chargeable was to be gotten from the vendors in each case. The defendant bought the first lot at $180 per acre, said nothing whatever to his client, but receiving from the latter the list price of $220 per acre retained the difference to his own use. He then tried to buy the second lot, and as the owner would not sell below the list price he reported to plaintiff that a higher price must be paid to secure this, and his client again consenting he again appropriated the difference in price. The plaintiff later discovered the scheme which had been worked upon him and brought action to recover the additional sums paid to and retained by the defendant.

Held, that the defendant stood in the fiduciary position of an agent for Fleming, and as such could not make any profit out of principal unknown to that principal. His duty as agent was to buy the lands for Fleming on the best terms possible for the latter, the law does not allow him to assume a new roll whereby his duty and personal interests conflict. Judgment for the plaintiff is, therefore, upheld. 40, S.C.R. 134.

Room in a Building is "Land"—Title May be Acquired by Possession.

Iredale vs. Loudon—

A very unique case is that arising out of the plaintiffs tenancy of a certain room in Toronto. He entered into possession some years ago and for a time paid rent, then he continued to hold for twelve years without paying rent or acknowledging himself to be a tenant. At the expiration of this period the owners of the building proposed to pull down the building, which was an old one, and in doing so they would, of course, destroy the plaintiffs shop on the second floor with stairway leading up, and the plaintiff brought this action to restrain them from proceeding.

Under Ontario statutes (as also of most of the other Provinces) ten years actual and continuous and undisputed possession gives a title to land. Now it is a well recognized principle of English law that land may be divided horizontally as well as perpendicularly, e.g., a company may own seams of coal beneath the surface which belongs to an agriculturist and, indeed, different strata may belong to different owners.

Held, therefore, that Iredale had acquired title to the room together with stairway leading to same.

But what of the right to support? He never did have actual possession of the supports below, and how could he acquire title to these? Moreover, if he claims not the supports themselves, but a right to be supported, that is an easement upon the land below, and cannot be established except by 20 years of continuance, and he has only been there 12 years. The judges differ as to reasons, but fail to give him any right to support. He is, therefore, owner of certain space to which he cannot gain access and of which he cannot make any use. 40, S.C.R. 313.

CEMENT STATISTICS FOR CANADA.

	Barrels. 1906.	Barrels. 1907.
Portland cement sold	2,119,764	2,368,503
Portland cement manufactured	2,152,562	2,413,513
Stock on hand, January 1st	269,558	299,015
Stock on hand, December 31st	302,356	343,035
Value of cement sold	$3,164,807	$3,574,828

The average price per barrel at the works in 1907 was $1.43, as compared with $1.40 in 1906, and $1.42 in 1905.

The imports of Portland cement into Canada in 1907 were:—

	Cwt.	Value.
Six months ending June	732,684	$277,133
Six months ending December	1,621,520	560,387
The year 1907	2,354,204	$837,520

According to the annual statement of the Pullman Car Company, Chicago, just made public, the company during the fiscal year ended July 31, carried 18,603,067 passengers, compared with 18,020,379 in the year previous. The financial statement shows after deducting the expenses, dividends of $7,998,356, depreciation, etc., a net surplus for the year of $1,790,567.