whole transaction was to be a purchase by the Bank from the sheriff, and this must mean a valid and effectual purchase and not a mere apparent or pretended one. The circumstances show that the Bank did not really become the purchasers, not by reason of any defect in the prior title but because of a vice in the sale itself, which prevented its being a sale. It was only in the event of their becoming the purchasers that the terms and conditions of the letters of January, 1883, became applicable, and their lordships think that the Bank never did, within the true meaning of those documents, become the purchasers.

For these reasons their lordships will humbly advise Her Majesty that the judgment appealed from should be affirmed and the appeal dismissed with costs.

R. B. Haldane, Q. C., and *A. W. Atwater,* (of the Montreal Bar) for appellant.

R. W. Macleod Fullarton, Q. C., for respondents.

SUPREME COURT OF CANADA.

OTTAWA, 18 Feb. 1896.

Ontario.]

AGRICULTURAL INSURANCE CO. v. SARGENT.

Suretyship—Principal and surety—Continuing security—Appropriation of payments—Imputation of payment—Reference to take accounts.

J. H. S. was a local agent for an insurance company, and collected premiums on policies secured through his agency, remitting moneys thus received to the branch office at Toronto from time to time. On 1st January, 1890, he was behind in his remittances to the amount of $1250, and afterwards became further in arrears until, on the 15th October, 1890, one W. S. joined him in a note for the $1250 for immediate discount by the company, and executed a mortgage on his lands as collateral to the note and renewals that might be given, in which it was declared that payment of the note or renewals or any part thereof was to be considered as a payment upon the mortgage. The company charged J. H. S. with the balance then in arrears which included the sum secured by the note and mortgage, and continued the account as before in their ledger charging J. H. S. with premiums, etc., and the notes which they retired from time to time as they