follows: "L. & Co., on account of owners, loss, if any, payable to L. & Co., do make insurance and cause to be insured, lost or not lost, the sum of $2000, on advances upon the body tackle," etc. The policy was on a printed form, but the words "on advances" were inserted in writing. The remainder of the instrument was applicable to insurance on a ship only.

To an action on this policy the defence was that it only insured advances by the owners, which were not a proper subject of insurance, and the policy was, therefore, void. It was shown that L. & Co. had expended considerable money in repairs on the vessel.

Held, affirming the judgment of the Supreme Court of Nova Scotia, that the rule *ut res magis valeat quam pereat* required the policy to be construed, if possible, so as to make it a valid instrument, and this could be done either by striking out the words "on advances" as surplusage, or treating them as being a mere immaterial reference to the inducement which led the owners to insure the ship.

Appeal dismissed with costs.

Henry, Q.C., for appellants.

Borden, Q.C., for respondents.

CROWE *v.* ADAMS.

Sheriff—Action against—Trespass or trover for seizing goods — Justification — Necessity to show judgment— Title to goods — Married Woman's Property Act (R.S.N.S., 5th ser., c., 74).

A sheriff having seized goods under execution against Donald A., the wife of the execution debtor brought an action against him for trespass by such seizure, alleging that the goods seized were her separate property, under the Married Woman's Property Act (R.S.N.S., 5th ser., c. 74), and claiming also that the execution was void, as her husband's name was Daniel, and not Donald. On the trial the sheriff, under his plea of justification, put in evidence the writ of execution, but did not prove the judgment on which it issued. The jury found that the plaintiff's right to the goods seized, whatever it was, was acquired from her husband after marriage, which would not make it her separate property under the Act; they also found that the husband was well known by both names of Daniel and Donald. The trial judge held that the plea of justification was not proved by the production of the execution, but that proof of the judgment was necessary, and he gave judgment for the plaintiff, which was affirmed by the full court.

Held, reversing the judgment of the Supreme Court of Nova Scotia, that the action could not be maintained; that a sheriff sued in trespass or trover for taking or converting goods seized under execution can justify under the execution without showing the judgment: *Hannon* v. *McLean* (3 S.C.R. 706) followed; and that by the findings of the jury the goods seized must be considered to belong to the husband, which is a complete answer to the action.

Appeal allowed with costs.

Newcombe for the appellant.

Borden, Q.C., for the respondent.

CHANDLER ELECTRIC CO. *v.* FULLER.

Negligence—Manufacture of electricity—Discharge of steam—Damage to adjoining property.

F. was owner of a warehouse in the city of Halifax used for storing iron, and had occupied the same for some twenty years. In 1889 the Chandler Electric Co. established a station for generating electricity on the adjoining premises. Attached to the engine used by the company in said business was a condenser which passed through the floor of their premises and discharged into the dock below at a distance of some twenty feet from said warehouse. In March, 1889, the warehouse was found to be full of steam, which fact was communicated to the officers of the company who stated that they could not understand how it could have been caused by their engine. The steam continued to enter the warehouse, injuring the iron therein, and in 1890 an action was commenced by F. against the company for such damage. The company contended, as a defence to the action, that they were using the latest and best improvements in machinery for their business, and that they operated the same in a proper manner, and without negligence; that the injury, if caused by their engine, was due to the defective state of the plaintiff's premises; and that they were acting in pursuance of statutory powers contained in their act of incorporation, and were therefore exempt from liability. At the trial judgment was given against the company and on appeal to the full court the judges were equally divided.