

Sept. 15, 1883

[Ct. of App.]

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NOTES OF CANADIAN CASES.

as the same would have been held and enjoyed by him had such sale not taken place.

Held, per PATTERSON, J.A., that this did not restrict the assignment to the unexpired term of the original patent, but that Peck was entitled to a renewal thereof under the statute.

Per OSLER, J.—The right of Peck was restricted to the then existing patent.

Moss, Q.C., and *Black*, for appeal.

Blake, Q.C., and *Fitzgerald*, contra.

RUSSELL V. CANADA LIFE ASSURANCE CO.
Life insurance—Statements of insured—independent inquiries by Co.

The managing officer of an Insurance Co. directed the local agent to make inquiries as to the habits and state of health of A. R., the answers made by him to the usual questions of the Company not being considered reliable, and the agent giving a satisfactory report in reference thereto the application for insurance was accepted and a policy issued.

Held, that the Company was not thereby precluded from shewing that the application and answers of A. R. contained such wilfully untrue representations as rendered the policy void.

Bethune, Q.C., and *McTavish*, for appeal.

McCarthy, Q.C., and *A. Bruce*, contra.

ROSENBERGER V. GRAND TRUNK RAILWAY CO.
Railway Crossing—Giving warning of approach of train.

The decision of the C. P. D. reported 31 C. P. 349, affirmed, *Burton*, J.A., dissenting.

DIRECT CABLE CO. v. DOMINION TELEGRAPH CO.

The decision of the Court below (28 Gr. 648) affirmed.

MACNAMARA V. MCLAY.

Registrar of deeds—Fees on searches, &c.—Public inspecting books.

In an action brought against a County Registrar to recover back alleged over-charges, it was shewn that the plaintiff had called upon the Registrar to search the books and indices in his office, and informed him of the persons named

as grantees in the last executed deed of a certain lot; and also what encumbrances there were registered against it. There were 28 entries on the abstract index, and the Registrar charged for these services at the rate of 25c. for the first four entries, and 5c. for each of the other entries.

Held, that this charge was proper.

The plaintiff told the Registrar that one A. owned a lot in the Township of B., but was ignorant as to the number of the lot, and asked the Registrar to tell him what encumbrances there were against it, which the Registrar did, and charged for those services 25c. for ascertaining the number of the lot, and 25c. for searching for the encumbrances.

Held, that both were proper charges.

The plaintiff asked to examine an original conveyance in the Registry Office, informing the officer of the names of parties thereto and the lands affected thereby, but did not tell him the number of the conveyance. The Registrar examined the index, for which he charged 25c., and 10c. for producing the document.

Held, also, to be proper charges.

The Registrar was required to produce the abstract index of a lot which contained 180 entries, for which he required to be paid \$2.00 as for a general search, the plaintiff offering to pay 25c.

Held (*BURTON*, J.A., dissenting), that the Registrar charged \$1.75 too much.

The Registrar charged \$2.05 for an abstract of five folios—i.e., \$1.20 for searches, the remainder being for copying at the usual rate.

Held, the Registrar was entitled to those fees, though he only copied it from the index.

A Registrar when preparing an abstract is not bound to rely on the correctness of the abstract index, but may properly test its correctness by making all search necessary for the preparation of the abstract; he may rely, however, on the index if he thinks proper and charge the same fees as for searches. But if he gives a certified copy of the abstract index only he can charge no more than the rate per folio.

Per *BURTON*, J.A.—The Registrar is the proper person to make searches, and he must produce the original instruments and the books containing copies thereof only, but not the abstract index.

Per *PATTERSON*, J.A.—Every person interested in a lot of land is entitled to see the abstract in-