

ing and lubricating oils, etc., and all other goods kept by them for sale." A small quantity of gasoline was in the building containing the stock when it was destroyed by fire.

*Held*, gasoline being an illuminating oil, it was part of the stock insured and the above statutory condition could not be invoked to defeat the policy.

Per ANGLIN, J.:—If gasoline was not insured as an illuminating oil it was within the description of "all other goods kept for sale."

By s. 2 of the Insurance Act "where, by reason of necessity, accident or mistake the conditions of any contract of fire insurance on property in this province as to the proof to be given to the insurance company after the occurrence of a fire have not been strictly complied with . . . or where from any other reason the court or judge before whom a question relating to such insurance is tried or inquired into considers it inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such conditions," the company shall not be discharged from liability.

By statutory condition 13 (a) in the sch. to the Fire Insurance Policy Act every person entitled to make a claim "is forthwith after loss to give notice in writing to the company."

*Held*, FITZPATRICK, C.J., dissenting, that the above clause applies to said condition.

Judgment appealed against (19 Man. R. 720), *sub nom. Prairie City Oil Co. v. Standard Mutual Fire Ins. Co.*, 46 C.L.J. 271, 462, reversed, FITZPATRICK, C.J., dissenting.

Appeal allowed with costs.

*Coyne and S. H. Green*, for appellant. *Affleck*, for respondents.

Dom. Ry. Board.]

[Dec. 9, 1910.]

BLACKWOODS CO. v. CANADIAN NORTHERN RLY. CO.

*Railway Board—Jurisdiction—Spur tracks.*

The Board of Railway Commissioners for Canada has not the power to order that a private industrial spur-track or siding, constructed and operated under an agreement between a railway company and the owner of the land upon which it is laid, and used only in connection with the business of such owner, shall be also used and operated as a branch of the railway with which it is connected. See 46 C.L.J. 750.

Appeal allowed with costs.

*W. L. Scott*, for appellants. *Chrysler, K.C.*, for respondents.