judgments pronounced in the regular course of the ordinary procedure of the court may be reviewed and appealed from.

Held, also, that if the merits of the case were properly before the court the judgment appealed from should be affirmed.

Held, per GWYNNE and PATTERSON, JJ.: That the case was appealable; and on the merits, it appearing from the evidence that the servants of the company had done everything required by the statute to give notice of the approach of the train, the appeal should be allowed and a judgment of nonsuit entered.

Appeal quashed with costs.

Weldon, Q.C., for the appellants.

Skinner, Q.C., for the respondent.

PETERS *v.* CITY OF ST. JOHN.

Assessment and taxes—Insurance company—Net profits—Deposit with government—Statement to assessors—Variance from form.

By s. 126 of the St. John City Assessment Law, 1889 (52 Vict., c.27), the agent or manager of any life insurance company doing business out of the province is liable to be assessed upon the net profits made by him as such agent or manager from premiums received on all insurances effected by him; and the better to enable the assessors to rate such company, the agent or manager is required to furnish at a certain time in each year a statement under oath in a prescribed form, setting forth the gross income and particulars of the losses and deductions claimed therefrom, and showing the ratable net profits for the preceding year

By the form prescribed, the deductions to be made from the gross income consist of re-insurance, rebate, etc., actually paid, and amounts paid on matured claims on policies issued by such agent or manager. In the form presented by the agent of a life insurance company in St. John, N.B., there was no amount entered for deductions of the latter class, but instead thereof an item was inserted of "75 per cent. of premiums deposited with government for protection of policy-holders," which was an addition to the form. The statement showed that the deductions exceeded the gross income, leaving no net profits to be taxed. The assessors, on receiving this statement, disregarded the result shown thereby and assessed the agent on net profits for the year of $6,300. A rule *nisi* for a certiorari to quash the assessment was obtained, in support of which it was shown by affidavit that the amount required to be deposited with the Dominion Government by the company assessed was about 75 per cent. of the premiums received, and that the amount of such deposits from time to time returned to the company was applied for the benefit of policy-holders and formed no part of the income or profits of the company. The Supreme Court of New Brunswick discharged the rule, and refused to quash the assessment on the grounds that the government deposit was a part of the income of the company held in reserve for certain purposes and formed no part of the expenditure, and that the agent had no right to strike out certain requirements of the form prescribed and substitute different statements of his own.

Held, reversing the decision of the court below, FOURNIER and TASCHEREAU, JJ., dissenting, that the agent was justified in departing from the form to