REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Full Court.] BAXTER *v.* JONES. [June 5.

Fire insurance—Agent's liability—Gratuitous undertaking—Mandate.

The defendant, a general insurance agent, undertook gratuitously to have an additional $500 policy placed on the property of the plaintiffs; and before completion of this transaction he also undertook at the plaintiffs' request to notify the companies already holding policies of the additional insurance as is required under their policies. A loss occurred and owing to the defendant having failed to give such notice the plaintiffs were placed in the power of the insurance companies and had to accept $1,000 less than they otherwise would have had to do.

Held, that the transaction was one of mandate. If the defendant had not entered upon the execution of the business entrusted to him he would have incurred no liability, but having undertaken to perform a voluntary act he was liable for negligently performing it in such a manner as to cause loss or injury to the plaintiffs: *Coggs* v. *Bernard*, 1 Sm. L.C. 182.

Riddell, K.C., and *Stephens*, for plaintiffs. *Shepley*, K.C., and *Washington*, K.C., for defendants.

Full Court.] LA BANQUE PROVINCIALE *v.* CHARBONNEAU. [June 29.

Material alteration in note—Negligence—Liability of manager.

The defendant, the manager of a branch of the plaintiff bank, accepted a promissory note, not expressed to be joint and several, as security for an advance, instead of a joint and several one, although expressly instructed to require the latter. Shortly afterwards he discovered the mistake, and at the suggestion of one of the makers of the note he inserted the words "jointly and severally" on the understanding that the alteration was to be initialled by all the makers. This however was not done; and, after consultation with the bank's solicitor, the inserted words were crossed out by the defendant. In the result the bank were held to have lost their remedy on the note on the ground of material alteration. The bank then brought this action against the defendant for damages on the ground of negligence.

Held, (OSLER, J.A., dissenting) that the form of the note as taken was to all intents and purposes as valid as if made jointly and severally, and therefore in this regard only nominal damages could be recoverable.