

Nova Scotia.]

[May 1.

CITIZENS' INSURANCE COMPANY v. SALTERIO.

Fire insurance—Condition in policy—Assignment of policy—Change of title in property insured.

A condition in a policy of insurance against fire provided that the policy should not be assignable without the consent of the company indorsed thereon, and that in the event of any sale, transfer, or change of title in the property insured, the liability of the company should thenceforth cease. S., the insured under this policy, gave a chattel mortgage to a creditor of all his stock-in-trade insured thereby, and also "all policies of insurance on said stock and all renewals thereof." The consent of the company to the giving of this mortgage was not indorsed on the policy.

Held, reversing the decision of the Supreme Court of Nova Scotia, that as the chattel mortgage and subsequent transactions showed that S. intended the policy to pass to the creditor, there was a breach of the condition, and the policy was void.

Held, further, that though the chattel mortgage was not a "sale" or "transfer" of the insured property within the meaning of the condition, it was a "change of title" therein which freed the company from liability.

Appeal allowed with costs.

Newcombe, Q.C., for the appellants.

Chisholm for the respondent.

Nova Scotia.]

[May 1.

STUART v. MOTT.

Res judicata—Different causes of action.

S., in 1883, brought a suit for specific performance of an alleged verbal agreement by M. to give him one-eighth of his—M.'s—interest in a gold mine. At the hearing, M. denied the alleged agreement, but admitted that, in order to prevent S. from acting in the interest of rival mine-owners, he had promised to give him one-eighth of his interest in the proceeds of the mine when sold. Judgment was given against S. in the suit, on the ground that his alleged agreement was within the Statute of Frauds, and void for not being in writing. Some years afterwards, the mine having been sold, S. brought another action against M. for payment of the share in the proceeds which M. had admitted he promised to give him.

Held, reversing the decision of the Supreme Court of Nova Scotia (24 N.S. Rep. 526), that the judgment in the former suit for specific performance was not *res judicata* of the claim made by S. in his subsequent action.

Appeal allowed with costs.

Osler, Q.C., and *Newcombe* for the appellant.

Borden, Q.C., and *Mellish* for the respondent.

New Brunswick.]

[May 1.

ST. JOHN GASLIGHT CO. v. HATFIELD.

Master and servant—Common employment—Negligence—Questions of fact—Finding of jury.

The St. John Gaslight Co. being engaged in laying a main through one of the public streets of the city applied to one Wisdom, a plumber and gasfitter,