DECISIONS IN COMMERCIAL LAW.

In re GENERAL PHOSPHATE CORPORATION.—A shareholder's petition for winding-up alleged that the company could not be worked at a profit, and was commercially insolvent; that a compulsory order was necessary to insure a due investigation of its affairs and the institution of proper proceedings against its promoter; and that it was just and equitable that the company should be wound up. A committee of shareholders had reported that the company could not go on unless the directors found certain money, which they were unable to find; but a meeting of shareholders summoned by the Court had passed a resolution against a compulsory winding-up, though they had not voted in favor of the continuance of the business. Vaughan Williams, J., in making a compulsory winding-up order, said he based his decision on the ground that the properties of the company could not be worked at a profit, and that its substratum was gone.

MONTAGUE v. FORWOOD. — The plaintiffs, bankers in London, claimed from the defendants, who were shipbrokers in London, £53 3s. (less commission) which had been collected by the defendant from underwriters on two policies of marine insurance on goods. The policies were taken out in the name of Beyts, Craig & Co., who were merchants in London, and the Bank of Antwerp received instructions from the owners of the goods to collect the moneys from the underwriters in England in respect of a general average loss, and the bank wrote to the plaintiffs, their correspondents in London, enclosing the policies and directing them to collect the insurance moneys. The plaintiffs forwarded the documents to Beyts, Craig & Co., and the latter, not being brokers, forwarded them to the defendants, who were brokers at Lloyd's, to collect the moneys. The defendants did not know and had no reason to believe that Beyts, Craig & Co. were acting otherwise than as principals in the transaction. The defendants having collected the moneys, the plaintiffs gave them notice not to part with the moneys to Beyts, Craig & Co., who had in the meantime become bankrupt. The defendants claimed to retain the moneys as against a debt due to them by Beyts, Craig & Co. It was held that if A. employed B. to make a contract, and B. employed C. to make the contract, and B. was a person who might reasonably be supposed to be acting as a principal, A. could not, if C. had no notice that B. was not a principal, make a demand on C. without the latter being entitled to stand in the same position as if B. had really been the principal. If A. allowed his agents to appear in the character of principal, he must take the consequences.

GRAY v. STONE.—The articles of association of a company provided that the company should have a primary and paramount charge and lien upon every share in which a member was interested for any debt due to the company or liability to the company; and also that until execution of a transfer by both parties and entry of the transferee thereunder on the register of members, the transferor should remain owner of the shares expressed to be transferred, and be the member in respect thereof. The defendant Beeney held 565 shares in the company, and was indebted to the company. He sold 525 of the shares to the plaintiff, who did not know of his indebtedness to the company. On the plaintiff sending in the transfer of the shares of the company, the secretary replied that the debt due by the defendant Beeney to the company must be paid before the transfer could be registered. The plaintiff asked the company to resort to the remaining forty shares, which he alleged were more than sufficient to pay the debt; but this the company refused to do. Subsequently, the defendants, Stone and Funnell, obtained a charging order on the forty shares in respect of a judgment they had obtained against Beeney. The plaintiff then brought this action, and claimed that the defendant Beeney should pay his debt to the company and exonerate therefrom the shares he had sold to the plaintiff; or, in default of payment, a declaration that as between the plaintiff and the defendants, Stone and Funnell, the lien of the company ought to be discharged by resorting to the forty shares before touching the plaintiff's shares. The lien of the company on all the shares was not disputed. Romer, J., held that the plaintiff was right in his contention, and was entitled to say that as between himself and Beeney, the debt of the latter to the company, though a charge on all the shares, should be thrown exclusively on the forty shares. The authorities showed that the defendants, Stone and Funnell, being execution creditors, could only take the beneficial interest of Beeney in the forty shares.

JOYCE v. HALIFAX STREET RAILWAY COMPANY.—The charter of a street railway company required the road between, and for two feet outside of the rails, to be kept constantly in good repair and level with the rails. A horse crossing the track stepped on a grooved rail, and the caulk of his shoe caught in the groove and he was injured. In an answer against the company by the owner, it appeared that the rail, at the place where the accident occurred, was above the level of the roadway. *Held*, by the Supreme Court of Canada, affirming the judgment of the Supreme Court of Nova Scotia, that as the rail was above the road level, contrary to the requirements of the charter, it was a street obstruction unauthorized by statute, and therefore a nuisance, and the company was liable for the injury to the horse caused thereby.

CUMMING v. LANDED BANKING & LOAN CO.—W. and C. were executors and trustees of an estate under a will. W., without the concurrence of C., lent money of the estate on mortgage and afterwards assigned the mortgages, which were executed in favor of himself, described as "trustee of the estate and effects of" (the testator). In the assignment of the mortgages he was described in the same way. W. was afterwards removed from the trusteeship, and an action was brought by the new trustees against the assignees of the mortgage to recover the proceeds of the same. Held by the Supreme Court of Canada that in taking and assigning the mortgages W. acted as a trustee and as an executor; that he was guilty of a breach of trust in taking and assigning them in his own name; that his being described on the face of the instruments as a trustee was constructive notice to the assignees of the trust, which put them on enquiry; and that the assignees were not relieved as persons rightfully and innocently dealing with trustees, inasmuch as the breach of trust consisted in the dealing with the securities themselves and not in the use made of the proceeds.

—The quantity of crude petroleum produced in the Petrolea and Oil Springs fields last year was 800,000 barrels, equal to 28,000,000 Imperial gallons. This was 94,600 barrels less than 1891.