

tion shall issue against such a company upon any judgment until after the expiration of three months from the recovery thereof, does not apply to a judgment recovered on a policy issued by the company on the cash principle.

Lount v. Canada Farmers' Mutual Insurance Co., 8 P.R., 433, over-ruled.

The proper way of enforcing the judgment of the Court of Appeal is to have the judgment of the Court below amended if necessary according to the judgment in Appeal, and when amended to issue process thereon.

Cattanach, for appeal.

BANK OF OTTAWA v. McLOUGHLIN.

Increased jurisdiction of Division Courts—Balance of claim—Judicature Act.

Where the original demand is ascertained by the signature of the party liable, and a balance not exceeding \$200 remains due, the Division Courts under the Act of 1880 have jurisdiction.

The Judicature Act and rules in relation to procedure do not apply to the Division Courts; and Rule 330 of the Supreme Court of Judicature applies only to the Courts to which in terms it is made applicable.

At the trial the plaintiff elected to take a non-suit and the judge refused a new trial.

Held, that plaintiff was entitled to move to set aside the non-suit, and if refused could appeal therefrom.

Held, also, that a promissory note could be stamped by the maker on the day of the making thereof, though after it had been signed and endorsed. (See *ante* p. 238).

RE McDougall.

Insolvent Act—Interest on claims.

After payment by the insolvent's estate of 100 cents in the dollar the creditors claimed interest on their claims out of a surplus in the hands of the assignee.

Held, reversing the decision of the Court below, that notwithstanding the provisions of sec. 99 of the Insolvent Act, interest was payable on all debts originally payable with interest by contract or otherwise, but not where it was claimable by law as damages only.

Gormully, for appeal.

Bethune, Q.C., contra

FLEMING v. McNAB.

Land tax—Sale for taxes—Invalid sale by reason of improper assessment—Principal and agent—Agent buying.

The assessment of land in the name of the plaintiff embraced seven acres already sold and separately assessed, of which fact the assessor was aware. The defendant purchased at a sale for taxes, and the plaintiff instituted proceedings impeaching the sale within two years thereafter.

Held, affirming the judgment of the Court below, that the assessment was illegal and vitiated the sale.

The defendant had for some years acted as agent of the plaintiff in attending to the payment of the taxes on these lands, but for some time before the sale the plaintiff procured the services of one H. in this behalf. H. employed the defendant to pay the taxes to the Treasurer, which he did. The land was placed in the hands of a land agent to sell when the defendant offered to procure a purchaser on being paid a commission by the plaintiff, and nothing further occurred to destroy the relative position of the parties until the sale for taxes.

Per BURTON, J.A.—The confidential relationship was determined by the employment of H. by the plaintiff to pay the taxes.

Per PROUDFOOT, J.—That what took place could not have the effect of detaching the relationship between them, and therefore the defendant could not purchase the plaintiff's land to his prejudice.

C. Robinson, Q.C., and *O'Connor*, for appeal.
S. H. Blake, Q.C., and *Hall*, contra.

POWELL v. PECK.

Sale of patent—Renewal of patent.

The judgment of the Court below (reported 26 Gr. 322) reversed—Patterson, J.A., diss., the Court holding that from Peck's evidence before, as also after the expiry of the original patent he was aware when purchasing from Powell the patent he was obtaining the same for the unexpired term only, and that Powell did not lead Peck to understand or believe that the then existing patent had ten years to run.

Powell assigned all his right and interest in the patent to hold the same to the full end of the term for which the same had been issued as fully