satisfactory, in these and in many more supposable cases the company would nave been clearly bound. That goods specified generally as *hazardous* goods will not authorise a larger quantity of gunpowder to be kept on the premises than has been specially stipulated for. That a false statement, if provided against in the conditions, avoids the policy, whether that statement be material or not, for it is a part of the contract. That the knowledge of the agent is the knowledge of the principal. That the agent of an insurance company cannot as such agent bind the company to grant a policy without the consent of the directors. That the burden of proof is on the person dealing with an agent, to show that an agency exists, and that the agent had the authority assumed or otherwise which estops the principal. That when a public statute declared an insurance shall be deemed and become void on failure of some stipulation inserted in the statute, the provision cannot be waived by consent of the parties, or by notice, consent, or verbal or tacit acquiescence. That a steam engine introduced into the premises insured, and the using it in a heated state, avoids a policy which provides that there shall not be such without the consent of the company, although the engine was introduced only for the purpose of making an experiment whether it would be worth while to buy it, for the intent of the party is immaterial in such a case. That perfect good faith must be observed by the assured towards the insurer, and that any material untruth or concealment, fraud or misrepresentation, will avoid the policy, which is the substance of the passage referred to in the insurance works of Angell and Arnould.

ACTION OF RAILWAY EMPLOYEE AGAINST THE CO.—In the case of Sullivan vs. G. T. R. Co., tried at the York Assizes, it appeared that the plaintiff's husband was killed while in the service of the Co. He was clearing snow and ice out of the track in a cutting west of Limehouse; there was a curve; men thought it dangerous, but the foreman said the semiphore signal was up; this man and another tried to get a carry out of the way, but both were struck and killed; the train men say that seeing the semiphore up they put on brakes, but could not stop head way. For the defence, counsel contended that the company were not liable to damages where the accident merely involved injury instead of death; that there was ample warning given, and that the semiphore being up, which was nearly always in that position, was no guarantee to the deceased that trains would not pass; and finally, if there was any negligence with regard to insufficient brakes on the train, it was not in the original construction, but arose from insufficient repairs, which might be laid to their employees. The principal points of the judge's charge to the jury were:—It is proved that ample means were furnished to stop the train. Even if the brakes were of little or no use, the engines, one of which was new, were quite sufficient to stop the train (as sworn by one witness) on any part of the road. If these means were not used the plaintiff could not recover, as he would have suffered by the negligence of his fellow workmen, in which case the employer is not liable. The only case in which the company is liable would be—if it was found that Sullivan, from the extreme agitation and confusion in which the fright and proximity of the engine plunged him, when he took the very worst course, ran down the track; but if you think he had ample time to get away as the others did that does not hold. Consider the defendants as an individual, and if found liable give Mrs. Sullivan and her family an amount of damages in proportion to the loss sustained. The jury disagreed and were dismissed.

In the case of Plant vs. G. T. R. Co., the facts were similar to the foregoing, Plant being killed by the same accident. The evidence in the other case was admitted and the jury brought in a verdict for the plaintiff, giving her $1,300, viz., $300 for the eldest child, $400 for the next, $500 for the youngest, and $100 for herself.

THE GEORGIAN CASE—UNITED STATES V. DENISON.—This case, which has been the subject of great public interest for some time past, was finally heard before the Chancellor at Hamilton last week. A decree was made in favour of the plaintiffs, giving over the propeller *Georgian* absolutely to the United States. As against the defendant Jacob Thompson the bill was dismissed without costs, as his counsel at the hearing disclaimed all interest in the vessel. Mr. Blake, Q.C., Mr. Geo. Morphy and Mr. Fenton, appeared for the plaintiffs; Mr. McMichael and Mr. Hoskin for Thompson; and Mr. Richard Grahame for defendants Denison and Cleary.

PAYING DIVIDENDS OUT OF CAPITAL.—In a case of Osgood, receiver of the Columbian Ins. Co. v. Laytin, in the Court of Appeals, New York, the following facts were disclosed:—In July, 1866, the Company, being insolvent, paid a dividend of threeand one-half per cent. upon its stocks to the defen-dants, who were stockholders of the Company. Some of the creditors of the Company commenced actions individually against several of the stockholders separately, for the purpose of recovering from them the amount of the dividend received by them respectively, whereupon the plaintiff commenced this action against all the stockholders of the Company, and also against the creditors of the Company, who had commenced actions against the stockholders, demanding judgment against the stockholders severally for the amount of the dividends respectively received, and a judgment against the creditors perpetually restraining them against the prosecution of suits against the stockholders of the Company for the collection of the dividend received. The judgment was as follows:—*Grover, J.*—The point presented by the stockholders, who have demurred, is that the plaintiffs cannot recover from them the sum received as dividends, for the reason that the complaint shows that the same was paid out of capital and not out of profit, and is not therefore a dividend within the meaning of the law, but a misappropriation of capital and does not therefore come within the meaning of the statute. I am at a loss to discover how the argument that money paid by the Company to its stockholders, although paid as a dividend, is not such in a legal sense, if sound, can at all benefit these defendants. Sec. 1, page 506, Laws of 1868, among other thingsprovides that the receiver of an insolvent corporation may, for the benefit of creditors, treat as void and resist all acts done, transfers and agreements made in fraud of the rights of any creditors. From the facts stated in the complaint, it is manifest that a distribution of the capital of the Company, or any part of it, among the stockholders, was a fraud upon the creditors. It is alleged that the Company was at the time insolvent. It must be presumed that the Directors, at the time of declaring the dividend, were cognizant of this fact, as it was the duty of each to examine into the affairs of the Company before making a dividend, and when making it, to know that it was made from net profits belonging to the Company. If the Company being insolvent, distributes its capital among the stockholders, thus placing it beyond the reach of its creditors, such act is a fraud upon the creditors, and falls directly within the provision of the statute above cited. It is insisted by the counsel for the stockholders that to authorize the plaintiffs to recover, by virtue of the above statute, from the stockholders, the complaint should aver an intent, in making the distribution, to defraud the creditors. I do not think this necessary. Ignorance of facts, that it was the duty of the managers to know, not to know which was gross negligence, cannot excuse the managers, and impart any virtue or validity to acts otherwise clearly illegal, and which was a palpable fraud upon the creditors. But I do not think the position sound. Section 20 of the act to provide for the incorporation of Insurance Companies, as amended in 1857, 4 Edm. R. S., page 210, provided that no dividend shall ever be made by any company incorporated under the act, when its capital stock is impaired, or when the making of such dividend will have the effect of impairing its capital stock; and any dividend so made shall subject each stockholder receiving the same to an individual liability to the creditors of said Company to the extent of such dividend received by him. This shows that the Legislature used the term dividend in its popular sense, that is, a sum of money distributed *pro rata* among the stockholders without reference to the source from which it was taken or paid. The fact of its being illegal to make a dividend of anything but net profits does not at all tend to show the meaning of the Legislature in the use of the word. The design plainly expressed by the language of the section was not to prohibit a dividend of the capital among the stockholders, but to preserve the same intact as a fund for the payment of creditors and security of dealers. It follows that the dividend in the present case was illegal, and that the stockholders receiving the same are liable to the creditors for the amount by them respectively received.

WAREHOUSE RECEIPT—PARTNERSHIP.—A case of more than usual interest was under consideration by a bench of magistrates here for the last two days. It appears that a warehouse receipt for 300 barrels of oil was endorsed over by Mr. F. Benson, to the Bank of British North America, London, for advances made on paper discounted. This was as far back as April last, and the receipt purported to be signed by Messrs. White & Clark, of the Cedar Creek Oil Refining Company. On the maturity and non-payment of certain paper, an attempt was made to get possession of the oil covered by the warehousereceipt. On application to Mr. White, one of the firm, he expressed his inability to furnish the oil. Mr. Clark, the other partner, stated that a dissolution of partnership had taken place prior to the giving of the receipt; but that if he got the necessary security from either White or Benson he could furnish the oil. Subsequently Mr. Benson left the country, and Mr. White still refused the oil. The proceedings were to determine the responsibility. It was shown by the evidence of Mr. Nelles, that an arrangement for a dissolution of partnership between White & Clark had been reached in March last, but that the indenture of dissolution had not been signed until the 5th April, two days after the date of receipt. As the bank proceeded under the statute for fraud, it became necessary for each party to take distinct grounds in defence. Mr. Clark showed that prior to the giving of the warehouse receipt, an understanding had been made by the parties that no further liabilities should be incurred, and that on the strength of this agreement he was blameless, and should so be held: Mr. White contended that the partnership existed up to the date of the indenture of dissolution, and that at all events the oil covered by the warehouse receipt, had been sent forward to the order of Benson as specified, but it was not shown that any transaction had cancelled the obligation embraced in the receipt. The question to determine was, first, was Mr. Clark, at the date of the giving of the receipt, a member of the firm of White & Clark. Again did delivery of oil by Mr. White to Mr. Benson, relieve the former or the firm from the obligation? Or was Mr. White acting imprudently in giving the name of the firm, when terms of dissolution had been agreed upon, and when a separation was pending. The decision of the justices was that Mr. Clark was no way responsible for the giving of the receipt, while it was shown conclusively that its issue and non-fulfilment fell upon Mr. White. Notwithstanding this decision the merits of the case will most likely be offered to the public through the courts of law, as the bank will hardly let the matter rest without an attempt to enforce payment.—*Woodstock Times.*

## Mines.

BELLEVILLE, Nov. 4th, 1867.—There is still no definite intelligence as to the actual value of our gold and silver deposits; nothing but the usual small assays of five pounds and under of "rock," and but few of these. There would almost seem to be some fatality opposed to the actual operation of the crushing and reducing machinery, by which alone the true value of the ores can be determined. First Turley and Gilbert's amalgamating apparatus was found to be deficient, and their work was discontinued