for that purpose, would be a trespasser, and that there was no offer on the defendant's part to deliver up possession. In *Holtzopffell* v. *Baker* (18 Ves. 115) it was held by Lord Eldon, L. C. that the lessee had no remedy in equity.

Again: in *The Brecknock Company* v. *Pritchard* the liability of a person who has contracted to keep a bridge in repair came into question. The declaration alleged that the defendants undertook to keep in complete repair a bridge for seven years, but had failed to perform their contract. The plea alleged that the bridge had been washed away by the act of God, that is, by a great unusual and extraordinary flood of water, such as the bridge could not be reasonably expected to resist. This was held bad. But the principle of this case falls far short of the extent which it is necessary to go in order to support *Appleby* v. *Myers*. It seems reasonable enough to hold, that the defendant's contract was, in effect, one insuring that the bridge should be in repair during the whole of the time specified; but *Appleby* v. *Myers* presented many difficulties, and, as the Court said, was a case as to which no decision directly in point could be cited.—*Jurist.*

LONG VACATION.

It is perfectly well understood that the closing of the Chancery offices does not take place solely for the benefit of the officials connected with them, and that the profession are quite as much pleased by being limited to a certain time within which they must complete any work connected with the Accountant-General's office, or submit to have it deferred over the Vacation. We say that this compulsion is a boon to many, because much work is got over, particularly in the Taxing Master's offices, which might, but for the closing of the offices, be delayed indefinitely.

When, therefore, a correspondent of the *Times* suggests that it would not, "under the circumstances of the exceptional state of the money market be any great hardship if the officials were called upon to defer their holiday for two or three weeks, in order to release many thousands of pounds which will otherwise be locked up during the Long Vacation," he displays the audacity of ignorance for which the *Times* itself is so famed. He assumes, in the first place, that the offices are closed to give the officials a holiday, whereas it is well-known that the clerks in the Accountant-General's office remain working for a considerable period with closed doors in order to balance the account with the Bank. He next assumes that there are many waiting to get money out of court whom the pressure of the business of the courts prevents from getting their petitions presented or heard; and, moreover, he assumes that if about three weeks were given them, these lagging ones would come in and be in time to transact their business. None of these assumptions appear to be warranted by the facts. In order to balance the Accountant-General's book is is found necessary to colse the offices for public business, and the time fixed this year for their closing is the same as usual. As regards the pressure of business, we have inquired from reliable sources and find it to be no greater than is usual at this time of year; indeed, we have heard it generally said that the "money business" is unusually light; and in respect to want of time, we venture to assert that there will be few indeed (if any) who, with the notice they have had, will have been prevented from getting their work through before the Vacation, merely by reason of the closing of the offices. Why it should make any difference to the "hardship" of giving up three weeks of a vacation that money is at 10 per cent. we leave to others to discover. The emergency, if any, can be overcome by special application made to the judge, and we have always believed, and still believe, that the closing of the offices, like the closing of the transfer-books at the Bank, gives a periodical opportunity of winding-up certain classes of business which would otherwise be left to accumulate in endless arrears.—*Solicitors' Journal.*

UPPER CANADA REPORTS.

QUEEN'S BENCH.

(*Reported by* C. Robinson, Esq., Q.C., *Reporter to the Court.*)

Newman v. Niagara District Mutual Fire Assurance Company.

Compulsory reference at N. P.—Making order a rule of court—Certificate by arbitrator.

Action upon a policy of insurance on goods. *Pleas.*—Denying the policy—setting up that the goods were not destroyed—that the plaintiff gave no notice of the loss as required—misrepresentation as to value of the goods and mode of heating the premises—increase of risk by alteration. After the examination of one witness the Judge at *Nisi Prius* ordered a compulsory reference. The award, dated 30th April, was in favor of the plaintiff. The evidence and proceedings, with the exhibits, were annexed, with a certificate signed by the arbitrator, dated 11th May, stating that he certified the same to enable the defendant to move against his award if so advised.

A rule *nisi* was granted in the Practice Court to set aside the verdict and award, and for a new trial or reference back, and was moved absolute in full court, though not on the face of it returnable there. The main objection was that the arbitrator had found due notice and account of the loss given, whereas it was disproved by the plaintiff's own evidence.

Held. 1. That before moving, the order of reference should have been made a rule of court.

2. That the objection, being to the arbitrator's finding on the evidence, was untenable, unless misconduct could be inferred.

3. *Semble*, that the compulsory reference was authorized; but *held*, that the defendants, having attended at the arbitration without protest, were precluded from raising this objection.

4. *Semble*, also, that the certificate could not be looked at, as it was written after the award.

Remarks as to the practice of arguing rules in full court moved in Practice Court.

[Q. B., E. T., 1866.]

The first count in the declaration was on a policy of insurance, dated 30th November, 1863, whereby the defendants agreed to insure the