

Q. B.]

NOTES OF CASES.

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and 18 to F, which transaction was negotiated by the deceased, and in 1875 the defendant sold lot 18 to F, with his concurrence. The defendant swore that the deceased had never made any claim to the rent, and denied the whole case attempted to be made by the plaintiffs, but his evidence was not consistent.

Held, affirming the judgment of Spragge, C., that the evidence shewed that the deceased was the owner of half of lot 18, and that the plaintiffs were entitled to an account.

MacLennan, Q.C., for the appellants.

Blake, Q.C., (*Garrow* with him) for the respondents.

Appeal dismissed.

QUEEN'S BENCH.

IN BANCO, HILARY TERM.

MARCH 8, 1879.

IN RE CENTRE WELLINGTON ELECTION.

Parliamentary Election—Recount of Votes under 41 Vic. chap. 6, sec. 14—Mandamus to Junior Judge of County—Jurisdiction.

The Court refused a mandamus to the Junior Judge of the County of Wellington to proceed with the recount of votes under 41 Vic. chap. 6, sec. 14, as being a matter not within its jurisdiction, but belonging to Parliament alone.

MacLennan, Q.C., for applicant.

McMichael, Q.C., *contra*.

SOWDEN V. STANDARD INS. CO.

Insurance—Agent of Company acting for insured—Misdescription of premises—Right to recover—Statutory condition.

At the foot of an application for insurance, above the signature of the applicant, it was among other things expressly agreed, declared and warranted that if the agent of the Company filled up the application, he should in that case be the agent of the applicant and not that of the Company. The agent filled up the plaintiff's application in this case and in doing so unintentionally misdescribed the building insured in a particular, as found by jury, material to the risk:

Held, Armour, J, dissenting, that the plaintiff could not recover.

Held, also, that the above provision as to the agent was not in the nature of a condition requiring to be endorsed as a variation on the policy.

H. Cameron, Q. C., for plaintiff.

Bethune, Q. C., *contra*.

WHEELDON V. MILLIGAN.

Husband and wife—Authority of wife to bind husband.

Plaintiff, being indebted to defendant for rent and otherwise, left the country with the intention of going to Manitoba. On his way he wrote the following letter to his wife: "As regards Mr. Milligan's affairs, I wish you to do the best way you can: but tell Mr. Milligan not to be afraid of me. I will see him all right. Now if Mr. Milligan will do the thing that is square that is all right; but I hope he will be a friend to you and I will be the same to him." On receipt of this letter plaintiff's wife sold his chattels at a valuation to defendant, and executed a surrender to him of the demised premises, of which defendant then resumed possession. Plaintiff returned in four or five weeks after his departure and sued defendant in trespass thereon, as also on the covenant for quiet enjoyment contained in the lease of the premises in question, but,

Held, that he could not recover, for that coupled with the evidence set out in the case the letter to his wife clothed her with authority to part with the property and surrender the premises to defendant.

McFadyen, for plaintiff.

Masson, for defendant.

BALLAGH V. ROYAL MUTUAL ASS. CO.

Insurance—Statutory conditions—Variations—Reasonableness of condition.

Under the statutory conditions endorsed on a policy of insurance were printed, in different coloured ink, but in the same sized type, the words prescribed by sec. 4 of ch. 162, R. S. O. Then followed in much larger type and in the same coloured ink, the words, "additional conditions," and below this heading the following condition: "In