between himself and plaintiff, and did not question their jurisdiction ; and that the defence that the berth was not in Lunenburg but in Queen's County was not pleaded, nor the objection taken until the trial.

Held, WEATHERBE, J. dissenting, dismissing defendant's appeal with costs, that this was not a case in which the discretion of the trial judge should be reviewed.

McLean, K.C., for appellant. *Roberts* for respondent.

province of Manitoba.

KING'S BENCH.

Full Court.]   HENRY *v.* BEATTIE.   [July 6.

Negligence—Agent employed to effect insurance against fire—Liability of for neglecting to do so.

Appeal from decision of Richards, J., noted ante, p. 43.

Appeal allowed with costs : judgment for plaintiff set aside and action dismissed without costs.

Per Cur. The case made by the statement of claims was not proved. The evidence went no farther than to shew that the defendant was to forward the application to the Loan Company, which was expected to apply for the insurance, and the statement of claim should not at this stage be awarded to meet that case.

D. A. Macdonald, for plaintiff. *F. G. Taylor*, for defendant.

Full Court.]   RE CATHER.   [July 11.

Mortgagor and mortgagee—Power of sale—Qualification of language of short form by providing for sale without notice in addition to power of sale after notice.

This was an appeal from the decision of a District Registrar under R.S.M. 1902, c. 148, refusing to register Thomas Cather as the owner of the land in question.

Cather was the purchaser at a sale made under the power of sale in a certain mortgage of the property without notice to the mortgagor.

The mortgage contained the following proviso :— " Provided that the company, on default of payment for one calendar month, may, on one week's notice, enter on and lease or sell the said lands. The company may lease or sell as aforesaid without entering into possession of the lands. Should default be made for two months a sale or lease may be made hereunder without notice. When, under the terms hereof, a notice is