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## DECISIONS IN COMMERCIAL LAW.

ROBERTSON V. DAVIS.—D. endorsed two promissory notes *pour aval*, at the same time marking them with the words, "not negotiable and given as security." The notes were intended as security to the firm of A. and R. for advances to a third person on the publication of certain guide books, which were to be left in the hands of the firm as further security, the proceeds of sales to be applied toward reimbursement of the advances. It was also agreed that payment of the notes was not to be required while the books remained in the possession of the firm. The notes were protested for non-payment, and A. having died, R., as surviving partner of the firm, and vested with all rights in the notes, sued the maker and endorser jointly and severally for the full amount. At the time of the action some of the books were still in the possession of R., and it appeared that he had not rendered the indorser any statement of the financial situation between the principal debtor and the firm. The Supreme Court of Canada decided that the action was not based upon the real contract between the parties, and that the plaintiff was not, under the circumstances, entitled to recover in an action upon the notes, and further, that neither the payee of a promissory note nor the drawer of a bill of exchange can maintain an action against an endorser, where the action is founded upon the instrument itself.

KENNEDY V. NEALIS.—Where a mortgagee of a vessel took possession and sold it to a clerk in his employment, who immediately transferred the vessel to the mortgagee, and the mortgagee managed the vessel until her loss, some months after, he was held by the Supreme Court of New Brunswick chargeable with the fair value of the vessel at the time he took possession.

## THE SUCCESSION DUTIES.

In the matter of Province of Ontario against the estate of the late Alexander Cameron, of Toronto and Windsor, in respect of the succession duties upon estate of deceased, a judgment was last week rendered at Osgoode Hall by Judge Rose. His Lordship held the duties are to be computed and paid upon the amount of capital actually distributed, upon the final distribution, whether the same may have increased by accumulations or by rise in values, or have diminished. Until beneficiaries are entitled to possession or to the actual enjoyment of the moneys directed to be paid to them, the duties are not payable, and the amount cannot be ascertained until the time of right of possession accrues. This was a special case, apparently intended as a test.

—The shipments of cattle this season from Manitoba and the Territories, are likely to be the heaviest in the history of the North-West. Already, said the *Free Press* last week, the number exported is in excess of the total of last year, and yet Gordon & Ironsides have still 1,000 carloads to ship before the close of the season, which alone will aggregate between 17,000 and 18,000 head. Many of the western ranchers are contracting for the supply of cars next month. A feature of this season's operation has been the satisfactory prices paid farmers for their cattle.

### DAVID A. PENDER,

(Late of Foster & Pender)

Accountant, Auditor, Assignee,

28 Wellington St. East,  
Toronto.

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W. Barclay Stephens,

Manager of the Company.

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