

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

From Meredith, J.]

[April 13.]

ST. MARY'S CREAMERY CO. v. GRAND TRUNK RAILWAY CO.

Railway—Shipping bill—Bill of lading—Condition requiring insurance—Breach of—Loss of goods—Negligence.

Under s. 246 of the Dominion Railway Act, 51 Vict., a railway company is precluded from setting up a condition endorsed on a bill of lading, relieving the company from liability for damage sustained to goods while in transit, where damage is occasioned through negligence.

Consignors, by their own shipping bill, agreed to insure the goods to be shipped, the railway company being thereby subrogated to consignors' rights in case of loss, and a condition of a bill of lading given by the railway company on the shipment of goods required the consignors to effect an insurance thereon, which in case of loss or damage, the company were to have the benefit of.

Held, affirming the judgment of MEREDITH, J., that the contract being one for exemption for total liability, even where, as here, the damage to the goods was occasioned by negligence, the defendants are precluded, under the above section, from setting up the breach of such condition as aforesaid, as a ground of relief from liability. *Vogel v. Grand Trunk R. W. Co.* (1885) 11 S.C.R., followed. *Robertson v. Grand Trunk R. W. Co.* (1895) 24 S.C.R. 611, distinguished.

From Britton, J.]

[June 29.]

HEWSON v. ONTARIO POWER CO. OF NIAGARA FALLS.

Constitutional law—Statutes—Dominion legislation—Preamble—"Work for the general advantage of Canada"—Public property—Expropriation of private land.

The preamble to an act of the Dominion Parliament recited, "that it was desirable for 'the general advantage of Canada' that a company should be formed for the purpose of utilizing the waters of certain navigable rivers in the Province of Ontario, with the object of . . .," and then expressly authorized the construction of certain works connected therewith and the expropriation of land for such purposes, incorporating certain sections of the Railway Act of Canada; and also authorized the company to enter into certain contracts, extending beyond the limits of the Province.