

pleads that, as the fact is, A. has already brought an action unsuccessfully, at Winnipeg, for the rescission of the same contract, and on the same state of facts. Is or is not this a sufficient defence, and why?

9. Where the nature of foreign law or the difference between it and the Ontario law is a fact in the cause, what are the functions of the judge and jury respectively in dealing with it?

10. What is meant by such an expression as "Anglo-Indian domicile," and wherein lies the necessity for its use?

SALES—MERCANTILE LAW, ETC.

Examiner: F. J. Joseph.

Answer 18 questions only.

1. Where a chattel is sold with a warranty, can the vendee return the chattel for breach of the warranty?

2. Do either of the following contracts require to be in writing to enable the plaintiff to recover thereon?

(a) The plaintiff agreed to print for the defendant a book, of which the defendant was the author, for \$500, the plaintiff to find the materials.

(b) The plaintiff agreed to paint a portrait of the defendant for \$500.

3. Can a creditor apply a payment, unappropriated by his debtor, (a) to a gambling debt, or (b) to a debt barred by the statute?

4. The vendors ship goods to the vendees, and send them a bill of lading. The vendees endorse the bill of lading to a bank for advances. Before the arrival of the goods, the vendees become insolvent. What are the rights of the vendors to stop *in transitu*?

5. A. tranships 20,000 bushels of wheat to Liverpool, which he insures for \$10,000. B. is negotiating for the purchase of the wheat, and believing he is likely to close a bargain with A. insures it for \$10,000. Subsequently B. purchases the wheat, and A. agrees to keep up his policy for B.'s benefit. The vessel carrying the wheat is lost. What is B.'s position as to the insurance?

6. Define an *open* and a *valued* policy of marine insurance, and state your reasons for saying under which policy the insured derives the most advantage.

7. A., an agent for B., has in his possession a quantity of merchandise belonging to B., valued at \$1,000. B. verbally agrees with A. that he (A.) may retain the goods as his own on paying him, B., \$900 at the end of a month. Before the month is up, A. returns the goods to B. Can B. hold A. liable on his contract?

8. A. purchases from B. a quantity of wheat in the hands of C., a warehouseman. B. gives A. an order on C. to deliver the wheat. Before A. can deliver his order to C. the wheat is destroyed by fire. Upon whom does the loss fall?

9. The defendants were carriers of machinery from Toronto to Owen Sound, for the plaintiffs' mill. A case containing part of the machinery was lost, and the plaintiffs were obliged to send to England to replace the machinery in the missing case. This delayed the working of the mill for a whole year. Discuss the measure of damages recoverable by the plaintiffs.

10. A. buys out B.'s shop and business. The next day, C., unaware of the change, sends an order to B. for goods. A. sends the goods to C. When A.