

## REPORTS AND NOTES OF CASES.

## SUPERIOR COURT.

Montreal, May 16, 1878.

TORRANCE, J.

HART et al., v. BEARD.

*Demurrage—Working Days.*

Where a rate for demurrage was stipulated in the charter party, *held*, that only working days should be counted in estimating the demurrage.

The action was to recover the sum of \$731, balance remaining due by defendant on the purchase of 529 tons of coal. There was also a demand for five days' demurrage at 29.28 per day. The defendant confessed judgment for \$731, but denied the liability to demurrage.

TORRANCE, J., said that under C. S. L. C. Cap. 60, the delivery of coal should be forty chaldrons, or 120,000 lbs., per day. The 529 tons should have been delivered in ten working days, being from May 15 to May 26, inclusive. The delivery was not finished until May 31. The charter party was not binding on the defendant, as he was not a party to it; but it was a guide to determine the difficulty between the charterer and the defendant. The ship was to be discharged at the rate of 50 tons each working day, and demurrage was to be paid for a longer delay at the rate of £6 sterling per day. His Honor held that this meant working days, and Sunday, the 27th, and *Corpus Christi*, the 31st, must therefore be excluded. Defendant would have to pay for May 28, 29, and 30, at the rate named in the charter party, that being a reasonable allowance. Judgment accordingly.

A. M. Hart, for plaintiffs.

I. Wotherspoon, for defendant.

## DIGEST OF U. S. DECISIONS.

The following is a digest of the principal decisions reported in recent volumes of State Reports, the selection being made from the fuller digest in the American Law Review. The volumes of State reports referred to are 53 Alabama; 2 Delaware Chancery; 81 Illinois; 55 Indiana; 44 Iowa; 45 Maryland; 35 Michigan; 22 and 23 Minnesota; 57 New Hampshire; 28 New Jersey Equity (1 Stewart, in continuation of C. E. Green); 66 New York; 77 North Carolina; 28 and 29 Ohio State; 83 Pennsylvania State; and 49 Vermont.

*Action.*—See *Corporation*, 2, 4; *Judge; Landlord and Tenant*, 1; *Officer; Proximate Cause; Witness*, 3.

*Adjournment.*—Where a judicial sale is duly advertised to take place on a certain day, which is afterwards made a legal holiday, the sale may and should be on that day adjourned to another.—*White v. Zust*, 28 N. J. Eq. 107.

*Administration.*—See *Executor*.

*Adultery.*—See *Evidence*, 7.

*Advertisement.*—See *Tax*, 6.

*Agent.*—1. An agent authorized to sell machines with warranty, made such a sale after his agency had expired, and delivered the notes received by him in payment to his successor in the agency, who had no authority to warrant, and who sent the notes to the principal without informing him by whom the sale was made. The principal brought an action on the notes. *Held*, that he ratified the sale, and was bound by the warranty.—*Eadie v. Ashbaugh*, 44 Iowa, 519.

2. Where an agent has a power of substitution, and exercises it, his death revokes the authority of the substitute.—*Lehigh Coal Co. v. Mohr*, 83 Penn. St. 228.

See *Corporation*, 2; *Judgment*, 1.

*Animal.*—A buffalo bull, which had been reared from a calf on a farm, and was as tame as ordinary cattle, was held not to be *feræ naturæ*; and an action was sustained by its owner against one who killed it while trespassing on his land.—*Ulery v. Jones*, 81 Ill. 403.

*Application of Payments.*—See *Payment*.

*Assessment.*—See *Tax*, 3.

*Attachment.*—See *Foreign Attachment*.

*Attorney.*—See *Judgment*, 1.

*Bank.*—The power of discounting promissory notes is an essential feature of a bank; otherwise, of buying promissory notes; and, therefore, in the case of a bank organized under a State statute not expressly authorizing it to buy notes, it was held that the purchase of a note by such bank was *ultra vires*.—*Farmer's Bank v. Baldwin*, 23 Minn. 198.

*Bankruptcy.*—See *Consideration*.

*Betterment.*—See *Tax*, 3.

*Bills and Notes.*—See *Bank; Interest; Negotiable Instruments; Payment*.

*Bill of Lading.*—See *Carrier*, 2.

*Bona Fide Purchaser.*—Where the power of towns to subscribe for stock in railroad com-