

persons who had failed under the examiners' report on the call examination, and to report to Convocation whether any, and if so, what relief should be granted to them or any of them.

Mr. Purdom laid before Convocation the letter of Mr. Mills, of 5th February, touching his notice of motion.

Mr. Purdom, seconded by Mr. Meredith, moved:

That it be referred to the Legal Education Committee to consider the advisability of permitting the Faculty of the Western University to conduct all examinations of students attending that university required by this Society, and the adoption thereof by this Society; also to consider the advisability of establishing a law school in connection with Toronto University, similar to that now established in connection with the Western University, and to report at the next meeting of Convocation whether, in their opinion any, and if so, what changes can be advantageously made in the course and in the examinations. Carried.

Convocation adjourned.

(Signed) J. K. KERR,

Chairman Committee on Journals and Printing.

### NOTES OF CANADIAN CASES.

PUBLISHED IN ADVANCE BY ORDER OF THE  
LAW SOCIETY.

#### QUEEN'S BENCH DIVISION.

IN BANCO.

SMITH V. CITY OF LONDON INSURANCE CO.

*Insurance—Misdescription of premises—Waiver—Arbitration—Verdict—Variance—Statutory conditions—Variation.*

Plaintiff described insured building by a term intended for board, but read by company as brick, as which they insured the premises, not finding out mistake till after the fire. The 17th statutory condition on policy was that the

loss should not be payable for thirty days after completion of proofs of loss, unless otherwise provided by statute or agreement of parties, and there was a condition on policy as required by the Fire Insurance Policy Act as a variation of conditions that "the loss should not be payable till sixty days after completion of claim." Action was begun more than thirty but less than sixty days after fire. After action defendants demanded magistrate's certificate under statutory condition 13 E., and had an arbitration under condition 16, and by the award the value of building was put at \$2,500, and loss at \$1,700. The jury found former \$3,500 and loss \$3,500.

*Held (per WILSON, C.J.), 1.* That by reason of mistake as to character of premises there never was any contract, but that defendants waived the right to object to the mistake by demanding the magistrate's certificate and the arbitration. *2.* That the finding of jury as to value of building must prevail, notwithstanding the award. *3.* That the condition that the loss should not be payable till sixty days after completion of claim being in policy, and not dissented from by plaintiff, constituted an agreement between the parties, and that it was a reasonable condition, but that it was unreasonable for the company to insist upon, as they never intended to pay the loss.

*Per ARMOUR, J., following Parsons v. Queen Insurance Co., 2 O. R. 45,* any variation of the statutory condition is *prima facie* unjust and unreasonable.

*Robinson, Q.C., and Miller, for plaintiff.*

*McCarthy, Q.C., and Nesbitt, contra.*

#### HOLDERNESS V. LANG.

*Short form lease—Covenant to repair—Alterations by tenant—Waste—Waiver—Forfeiture.*

Plaintiff leased, under R. S. O. ch. 103, to defendant premises for a grocery and liquor store for five years. Defendant subsequently broke a door through an inside brick wall. Plaintiff at first objected, but afterwards in effect assented. A partition, part glass and part wood, in which was a door, separated office from store. Subsequently defendant began to move this partition nearer the centre of the store, substituting wood for glass, closing the door and converting a front window into a