

Q. B.]

NOTES OF CASES.

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venting the creditors of the said mortgagor from obtaining payment of any claim against him, the said mortgagor.

*Held*, sufficient in substance to meet the fact of there being two mortgagors instead of one.

*Richards*, Q. C., for plaintiff.

*McCarthy*, Q. C., *contra*.

AGRICULTURAL SAVINGS SOCIETY V. THE  
FEDERAL BANK.

*Banking.*

Plaintiffs, a money loaning company, issued cheques upon defendants with whom they kept their account, payable to B. or order. These cheques were obtained by a third party, who indorsed them in B.'s name, and got the money on them. The cheques having been charged by defendants against plaintiffs,

*Held*, that the latter were entitled to recover back from defendants the amount represented by the cheques, as having been improperly charged against them.

*Bayley*, for plaintiffs.

*J. K. Kerr*, Q. C., *contra*.

JONES V. GRAND TRUNK RAILWAY CO.

*Railway Co.—Explosion of fog signal—Negligence—Nonsuit.*

Plaintiff, while standing on the platform at one of defendants' stations, had his eye injured by the explosion of a fog signal which had been placed on the track. The only evidence given was that certain servants of defendants had those fog-signals in their possession for lawful purposes, but that no one, to the knowledge of several employees of the company, who were called as witnesses, placed this one on the track, and it appeared not impossible that it might have been obtained from them by some third party, or might have been put there by a servant of the defendants for a frolic and not for any purpose of the company, or their business.

*Held*, that a non-suit had been properly directed.

*Wallbridge*, Q. C., for plaintiffs.

*Bethune*, Q. C., *contra*.

RE MCLEAN AND TOWNSHIP OF OPS.

*Drainage By-law—Omission in notice published—By-law varied by Court of Revision and Judge—Assessment of property in such cases—Interest of member of Court of Revision and Councillor.*

The omission of the words "during the term next ensuing the final passing of the by-law," from the published notice do not render the by-law invalid.

Where a by-law finally passed differs from that published only in respect of changes made in assessment by the Court of Revision and County Judge on appeal, it is not necessary to publish such by-law again after such changes.

Where the person who made the assessment was not notified and not present at Court of Revision,

*Held*, no ground for setting aside the by-law.

The Engineer is the proper person to make the assessment.

The principle on which the assessments were made in this case was held not erroneous, but this Court would not interfere on such grounds, as these are matters of complaint to the Court of Revision.

No interest that springs solely from his being a rate-payer in the municipality can disqualify a councillor or a member of the Court of Revision from performing his duties as such.

BELL V. IRISH.

*Distress for rent—Justifying as owner.*

Where a party distrains, as landlord, on goods which, as a matter of fact, had, by subsequent agreement between himself and tenants, but before the distress, become his absolutely. *Held*, that he may justify the taking on this latter ground.

ARMOUR J., dissenting, on the ground that the instrument under which the defendant claimed the goods had not the effect of transferring the property in them to defendant.

*P. S. Martin* for plaintiff.

*J. K. Kerr*, Q. C., *contra*.