

Q. B.]

NOTES OF CASES.

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tion the alleged loss had not been ascertained and proved.

Held, reversing the judgment of the Queen's Bench, that it clearly appeared from the plea, that the condition was a condition precedent, and that it was not necessary for it to point out how the loss was to be ascertained and proved.

Gordon for the appellant.

Spencer for the respondent.

Appeal allowed.

QUEEN'S BENCH.

VACATION COURT.

Hagarty, C. J.]

[April 25.]

Petition of Right—Contract with the Dominion before Confederation—Liability.

A petition of right set out an agreement made in 1866 between the petitioners and the Queen, represented by the Commissioner of Public Works of Canada, for the performance and completion by 1st September, 1877, of the carpenter's work required on certain additions to the Provincial Lunatic Asylum, at Toronto, and complained that, owing to the delay in proceeding with the other work which the said Commissioners promised to have done in time, they were delayed and unable to finish their work before July, 1878, and thereby put to great expense. They then alleged that their work was performed under the superintendence and control of the Commissioner of Public Works for Ontario, and for the sole benefit of and paid for by that Province, and that by an arbitration held under sec. 142 of the B. N. A. Act in 1870, the said Asylum became the property of Ontario.

Held, that the Province of Ontario was not liable.

Edgar and Cartwright for the Queen.

W. McDonald, contra.

Hagarty, C. J.]

[May 23.]

BOUSTEAD V. JEFFS.

Promissory note—Stamps—Pleading.

Declaration on promissory note. Plea—that note was not properly stamped, and that plaintiff, the endorsee, did not pay

double duty as soon as he acquired knowledge. Replication, admitting that plaintiff had not paid duty as soon as he acquired the knowledge that it had not been paid, and alleging that it was through error or mistake that he became holder with such knowledge, and as soon as he discovered the error he paid the double duty.

Held, replication bad for not tendering proper issue.

A similar replication to the third plea held sufficient, because the plea did not allege in terms that duty had not been paid.

Semble, that plaintiff might have the protection of the statute under a traverse.

Bigelow for the demurrer.

Akers, contra.

Hagarty, C. J.]

[May 2.]

RE ONTARIO BANK AND FOSTER.

Banking Act of 1871, s. 25—Application for order awarding shares—Writ executed in Quebec by bailiff and not by sheriff—Sale in execution in Montreal of shares of bank whose head office is in Toronto.

Upon an application by the Ontario Bank for an order under s. 25 of the Banking Act of 1871, adjudicating and awarding shares,

Held, that an execution from the Supreme Court of Montreal may be validly executed by a sworn bailiff of that Court, instead of by the Sheriff, under s. 19 of the Banking Act.

Also, that a sale in execution in Montreal may be made of shares of a bank whose head office is in Toronto.

Falconbridge, for the bank.

Holman, for the purchaser at bailiff's sale.

Osler, J.]

[June 10.]

HUBBARD V. THE UNION FIRE INSURANCE COMPANY.

Arbitration—Presence of parties—Invalidity of award.

One H. insured his stock of teas, &c., and sustained a loss by fire. In accordance with the statutory condition, an agreement was entered into referring the ascertainment