

COUNTY COURT, KINGS COUNTY.

REDDIN, Co.J.]

CARLTON *v.* McDONALD.

*Trover—Estoppel—Lien note.*

Trover for value of a horse. At the trial it was proved that the defendant had sold the horse to one Williams and had taken therefor a promissory note, retaining property in the horse until the note was paid in full. The plaintiff had, by the direction of Williams, paid a part of the price of the horse to the defendant, and although ignorant of the existence of the note, had enquired of the defendant before making such payment whether the defendant held a note from Williams. Whereupon the defendant explicitly and repeatedly denied holding any note whatever. Subsequently the plaintiff bought the horse from Williams, after which the defendant converted it to his own use.

*Held*, that the defendant's denial, under the above circumstances, to the plaintiff that he held the note, did not estop him from producing it as evidence of his right of property in the horse.

*Arthur Mellish*, for plaintiff.

*Mathieson*, for defendant.

Province of Manitoba.

QUEEN'S BENCH.

KILLAM, J.]

OWENS *v.* BURGESS.

[March 20.

*Fire—Damages—Negligence.*

Plaintiff in this action sued the defendant for damages by fire occasioned by the use of the defendant's steam thresher in threshing wheat. The jury found that the defendant was not guilty of negligence.

*Held*, that where a person uses fire in his field in a customary way for the purposes of agriculture, or other industrial purposes, he is not liable for damage arising from the escape of the fire to other lands, unless the escape is due to his negligence, and that the plaintiff could not recover.

*Pitblado*, for plaintiff.

*Mathers*, for defendant.

KILLAM, J.]

CLEMONS *v.* ST. ANDREWS.

[March, 20.

*Sale of land for taxes—Damages against municipality—The Assessment Act R.S.M., c. 101, s. 192—Right of action—Compensation.*

This was an action commenced before the Queen's Bench Act, 1895, came into operation, to recover the value of land claimed to have been sold by the