LEGAL DECISIONS.

IN the case of Rosebrough v. Eastwood, recently tried in the Western Division Court, Toronto, the defendant, who was the owner of a house for the erection of which the plaintiff had been given the contract, was ordered to pay $43, the full contract price, for work which had been rejected by the architects and replaced by another contractor.

MCKITTRICK V. PERRY.—This was an appeal by the defendant from the judgment of Judge Morson, judge of the county of York, given in favour of the plaintiffs in an action brought in that court and tried befor the judge without a jury. The suit was entered to recover the price of a furnace sold to the defendant for the purpose of heating his dwelling; the defence being that the furnace did not heat the house, and there was also pressed a counter claim for damages by reason of the defective heating. Judgment was given by the junior county judge for the full amount claimed by the plaintiffs, with costs, and the counter-claim dismissed with costs. Appeal allowed; the plaintiff's action dismissed with costs; judgment entered in favour of the defendant for $50 damages and the plaintiffs permitted to remove the furnace.

A case of considerable interest to architects and builders was recently decided in the county court at Winnipeg. In October last Mr. C. H. Wheeler, architect, sued Mrs. Joseph Wolf for commission in connection with the construction of her residence on Kennedy street. His original claim was $241 and his suit was for a balance of $161. Mrs. Wolf counterclaimed for $1,000 damages on the ground that the stone foundation had not been built 18 inches above the sidewalk and $100 further on account of defective work in the cellar. Evidence was submitted that the foundation was actually higher than the specifications called for. A number of witnesses testified that any damage caused to the cellar arose from the non-completion of the sewer on Kennedy street and the impossibility of getting rid of the water rising from the ground. The contract also provided that the cellar should not be completed until the sewer connection was made. Another point raised by the defence was as to the amount of commission to which the architect was entitled, the defendant and her husband contending that he had agreed to do the entire work for 2½ per cent. Professional evidence was given that 5 per cent. was the usual commission and the plaintiff and his son gave evidence that the defendant agreed to pay that amount. The jury gave a verdict for the plaintiff on both items of the counterclaim and for the full amount sued upon, less $13.50. A large number of witnesses was called on the part of the plaintiff, including several builders and contractors, and the case lasted a portion of two days.

The case of Pendarves v. Monro, reported in the current number of the Law Reports, should be noted, though it does not lay down a new legal principle, but simply emphasizes and exemplifies one which has been for some time in existence. Article 41 of Roscoe's "Digest of the Law of Light" states that "when a right is claimed in respect of windows in a new building coincident, wholly or in part, with windows in an old building, the owner thereof must show clearly that the new windows are coincident with and contain the area of those which have acquired the right light." This principle was enunciated by, among other cases, that of Fowler v. Walker, and it is this principle which Pendarves v. Monro emphasizes. The identity of the old and new windows was not proved. "By reason of the omission," said Mr Justice North in his judgment, "to keep any plan, there is no evidence which satisfies me that any part of an old window can be identified with any part of an existing window." In the work from which an extract has been given, the author states in the note to article 41, that when a building is to be pulled down, a plan showing the position of ancient lights should be made and kept with the title deeds. The place in regard to which the dispute in this last case arose was in Sardinia-place, Lincoln's Innfields, and the old houses were pulled down in 1872: therefore, being buildings in the center of London, it was eminently disirable that plans should have been kept. The occupier of the building from 1869 to 1872 made an affidavit giving particulars of the old windows, and stating that he believed that the new windows "cover in whole or part the ancient lights." But, as we have seen, this was not enough,—the evidence was too vague. The practical result, therefore, is that without a plan it is almost impossible to establish a right to light in respect of windows in a new building which have not themselves acquired a right, but are alleged to have such a right in respect of old windows in a demolished building, with which they are alleged to be identical.—*The Builder.*

MANUFACTURES AND MATERIALS

BRICKMAKING AND BRICKBUILDING IN NOVA SCOTIA.

The extensive forests in this country, causing comparative cheapness of wood as a building material, has tended much to retard the general use of bricks in the construction of buildings, public as well as private. Outside of the capital city and a few of the larger towns, it is rare to find a brick dwelling; the few which may be seen are crude in appearance and entirely devoid of any ornamentation. The idea that a brick building can be made handsome in appearance, without the use of face or repress brick and stone trimmings, has yet to be developed.

Face brick commands a high price, and stone trimmings are expensive and beyond the reach of the ordinary builder. A prejudice also exists against brick amongst many, on the ground that a building constructed of this material is liable to be damp. This is owing to the hitherto defective mode of building, no air space being left in the outer walls. However, of late years, this factor is recognized, and almost any one now understands that a brick building can be rendered more comfortable for winter or summer use than one built of wood. Again, there are in the rural districts of the province very few skilled masons and no regular bricklayers. What we have are fairly good all round men; they will build a rubble foundation, lay a brick wall, or lath and plaster in a plain, unpretentions manner. It is quite easy, on the other hand, to find a carpenter skilful enough to build you a wooden house in the very latest improved modern style, and just as easy to obtain the manufactured lumber from the many sawmills, planing and moulding mills and sash factories to be found in any ordinary sized town. The tourist from your country, who, anxious to escape the siroccos of your heated cities, and lured by the many press notices this year of our country, to spend their vacation with us, have seen in our rural districts many dwellings which attest the skill and æsthetic taste of the worker in wood and the excellence of the painter's art.

Brickmaking in this country is only in its infancy. You can count the brick-yards on your ten fingers, and yet the country is full of the material for making red brick of the finest description. With two or three exceptions the operation of brickmaking is conducted by hand. The clay is mixed in an old-style pug mill turned by a horse, the bricks are struck by hand, laid on the ground to dry,—if it rains to be washed away,—hence the common brick are roughly made, as a rule, and utterly incapable of making a finished wall. The exceptions, where steam is the motive power, and brick machines used to strike the brick, are in this county, with one other yard I understand in Pictou County started this summer.

The brick made by the International Brick & Tile Company, whose works are situated here, are moulded automatically in one of Creager's machines, driven by a forty horse-power engine. This company makes only common brick, but their brick have such smooth faces and square edges that they are being used for some purposes instead of face brick. The clay on the property of this company is of a superior quality, entirely free from grit, and is taken direct from the bank to the pug-mill. When moulded, the brick are dumped on pallet boards and placed in racks to dry, this being the only yard in the province in which the bricks are dried in this way. In all the yards the bricks are burned in the old style of kiln. Wood is now used as fuel, and at present it is kind of cheap, but the time will come when coal must take its place. There is not a "Eudaly," "Hoffman" or "Perfect" kiln in the country. Time and again I have urged the management of the company with which I have the honor to be connected to investigate the merits of the new and modern mode of burning, as compared with the old and, in my view, expensive, wasteful and antiquated methods, but without success. However, as everything comes to him who waits I yet hope to see a modern kiln as part of our plant. No ornamental brick is made in the country, and as for terra cotta it is unknown. Pressed brick is made in some of the yards, but they are manufactured by hand machines of antiquated construction. I should like much to see a Raymond or some other of the repress machines with which your manufacturers produce the beautifully moulded forms of brick and terra-cotta shown in the catalogues I have seen, and embellishing your fine and artistic brick edifices. Speed the day when ignorance and folly shall give place to the beautiful and edifying, as well as useful, in the construction of our residences and public buildings. Then may we hope to see brick predominating in our rural towns and settlements as the material of which to construct our dwellings, and such dwellings as shall combine art with utility, and which will not require constant repairs and the application of paint every now and then to keep up appearances.

To return, the Annapolis Valley, or "Evangeline's land," as it is now poetically known, contains vast deposits of argillaceous clay which becomes when burnt of different shades of red, from a bright toned terra-cotta to a deep cherry; just beside these deposits of clay are often found beds of sand sharp and fine, most of which can be used without screening. Moulding sand mixed with iron pyrites can also be obtained for experimenting in coloring, but usually with our clay it is not necessary. I have lately met with a description of kaolin which if properly treated, can be made into buff brick or terra cotta. It awaits only enterprise and capital to produce the manufactured article. We have the raw material, and the market will soon create itself. Our red clay, also, is suitable for drain tiles; being free from grit or stone, it can be easily worked through the tile machine. The market for this class of goods in a few years will be practically unlimited, as under-