in Clearwater, whereas the fact was otherwise. The jury found for the plaintiff. In ordering a new trial, the Chief Justice delivered the judgment of the court, and said :—

"The second count is for fraudulent representation, that the land was in Nelsonville. There was a representation to that effect proved by plaintiff, and denied by defendant; the evidence of such representation most relied on was that contained in the deed itself. This, in my opinion, was the mere clerical error of the conveyancer, (he ought to have proved that himself) whilst the evidence charged that as defendant's fraudulent representation : whether the defendant himself represented the land to be in Nelsonville independent of the deed, is very uncertain." "I cannot say there is no evidence of a misrepresentation. I think the evidence to the contrary very strongly preponderates. If the case had been before me as judge, and not before a jury, I should have found against the misrepresentation, but there was a jury, and their verdict cannot be ignored ; there should be a new trial, costs to abide the event."

The rule acted upon in this last case is that with which we started : *If the verdict be against the weight of evidence it must be set aside.*

It is strange that if there were any qualification of this rule no objection has ever been taken to the form of a rule *nisi* seeking to set aside a verdict on the ground that it is "against the weight of evidence." Unless this be a good ground in itself, without qualification, then the form of the rule *nisi* is defective. But it has never been thought to be defective, and there can be no better ground given for setting aside a verdict than that it is against the weight of evidence. A point of law is more easily dealt with, but the facts in many cases involve the whole dispute. And there is no reason why a decision based upon a wrong view of the law should be reversed, and a decision based upon a wrong view of the facts should be allowed to stand.