

and that if it were otherwise the result would be that the shareholders would receive back the money subscribed, and there would thus pass into their pockets what before existed in the form of cash in the coffers of the company, or of buildings, machinery or stock available to meet the demands of the creditors. And he also held that the purchase of shares for the purpose of re-selling would be a trafficking or dealing in shares, and unlawful.

Whatever may have been Allen's design in the purchasing and selling of shares; the directors examined before me expressly repudiate giving him any authority to do so, except to sell their so-called "trust shares;" and therefore, in view of the penal and prohibitory clauses of the Bank Act on this point, I must hold that the purchase and sale of shares by Allen was on his own account, and that whatever shares he acquired he did so on his personal responsibility.

The defence most strongly urged was that, in any event, Allen in making several of the transfers of shares had not at the date of the transfer the number of shares specified in such transfer. This I find to be a fact on the occasion of some of the transfers. But I must also find as a fact that at the same time he was authorized as agent of the directors who subscribed for the trust shares to sell for them such trust shares, and although at the time the legal title to these shares had not vested in him, he acquired it by transfer shortly afterwards. The law respecting the conveyance of a title to real estate says that if at the time of conveyance the grantor has no title or only an interest, and afterwards acquires the estate in fee, the conveyance which before operated only by estoppel, shall then take effect out of the newly-acquired estate of such grantor: Co. Lit. 47 b. Whether such a rule is applicable to the transfer of shares in a company, may not be necessary to consider in view of the cases to which I shall refer.

But before referring to them I may say that I see nothing in the law to prevent a bank or corporation on receiving from a shareholder a transfer of more shares than he is the registered owner of, recognizing such transfer to the extent of the number of shares the transferee is lawfully entitled to, and then supplementing it of its own authorized but unissued shares a sufficient number to make up the

amount required by the transferee. In the cases before me each transferee appeared to have signed in the proper book an acceptance of a specified number of shares, and it was optional in the bank, when there was a deficiency of shares in the transferee, to recognize the transfer. Where it did, and thereupon issued a share certificate for the specified number of shares,—such certificate would operate, I think, either by way of estoppel, or as an issue of so much of its own shares as would be necessary to complete the specified number required by the incoming shareholder.

But as the question has been settled by authority, it may not be necessary to consider it further.

In *Weikersheim's case*, L.R., 8 Ch., 831, one Lewis, a shareholder, transferred on the 23rd August, 1864, 1,400 shares in the Land Credit Co. to the appellants, but at that date he had no shares registered in his name. On the 5th September the transfers to Lewis were left at the office and registered as of the 30th August. It was contended that as Lewis had not the shares at the date of his transfer, the appellants were not liable, but Lord Justice JAMES held that as the appellants had been registered by the company as shareholders in respect of the 1,400 shares, the want of title in Lewis was not material; and that after such registration the company could not have disputed the right of the appellants as shareholders and members, nor could the appellants have disputed the fact that they were entered on the books of the company as shareholders having all the rights and liabilities of members in the company. Lord Justice MELLIS thought that the registration of the appellants as members of the company would make them "shareholders by way of estoppel;" that they did not really become shareholders until the date of the registration to Lewis (30th August), but that as they had re-transferred the shares to Lewis, it was totally immaterial whether they became shareholders at any one of the prior dates mentioned, because the extent of their liability depended upon the time when they made the re-transfer, and not on the time when they took the transfer of the 1,400 shares.

Other cases show that where the consent to become member of the company is shown, the invalidity of the transfer may be of no importance, the question to be considered