

[Chan. Div.]

Chan. Div.]

NOTES OF CANADIAN CASES—REVIEWS.

Divl. Ct.]

[Sep. 10.]

## SAUERQUIST V. THE ONTARIO BANK.

*Deposit receipt—Fraudulent receipt of the money—Lapse of time without depositor notifying bank (depositee)—Onus of notice—Estoppel.*

The plaintiff—an ignorant man—deposited \$650 with defendants on September 24, 1884, handed the deposit receipt which he got to S. S. for safe keeping, and went away to work on a railway. He returned in April, 1885, when S. S. told him he had drawn the money on the receipt and promised to pay him back.

Plaintiff, not knowing that he had any rights against the bank, did nothing further, and S. S. left the country in the August following, being heavily in debt. In the December following plaintiff was advised that he had rights against the bank, and he consulted a solicitor who promised to attend to it but did nothing. In April, 1886, he consulted another solicitor, when a demand was made on the bank and refused, and action brought. The demand was the first intimation plaintiff gave the bank of what had been done. In an action against the bank for the amount, it was

*Held* (reversing ARMOUR, J.), that the delay was not suggestive of collusion or any unfair dealing on the part of the plaintiff. No legal duty was cast upon the plaintiff to advise the bank that it had been deceived in or after April, 1885. His failure to claim his money or sue the bank at that time did not operate against him so long as his claim was not barred by the Statute of Limitations.

There was no negligence on his part which caused or contributed to the fraud so as to raise an estoppel. As there was no duty cast upon the plaintiff to notify the bank, one of the essential elements of estoppel by conduct was absent. *The Merchants' Bank v. Lucas*, 13 O. R. 520, distinguished.

*Ritchie, Q.C.*, for the plaintiff.

*Falconbridge, Q.C.*, for the defendants.

## REVIEWS.

## FOURTH ANNUAL REPORT OF THE DIRECTORS OF THE CANADA LAND LAW AMENDMENT ASSOCIATION.

We have been favoured with a copy of the Fourth Annual Report of the Canada Land Law Amendment Association. The work accomplished by this Association furnishes a strong argument in favour of the value of organization as a means for carrying out reforms. The principal object of its formation was to secure the introduction into this Province of the Torrens system of registration of titles, and certain other amendments of the law of real estate, having for their end the facilitating that system of registration, and generally bringing the law of real estate more into harmony with the law of personality.

Though the Association has not accomplished all that it set itself to do, it may nevertheless be congratulated upon having succeeded in making very considerable progress. It has induced the Government of this Province to pass the Devolution of Estates Act, which has to a great extent abolished the legal distinction between realty and personality, and it has also procured the passage of Acts which, in a modified and limited manner, introduce the Torrens system of registration. Furthermore, through the agitation of this Association, the Torrens system has been introduced, together with the modification of the law of realty which they advocated, into the North-West Territories and the Province of Manitoba. Such an amount of solid work accomplished in so brief a space of time—for the Association has only been in existence a little over four years—speaks volumes for the energy with which the objects of the Association have been promoted. To have virtually revolutionized the law of real estate in so vast a tract of country in so short a space of time, is certainly something to boast of. At the same time it is perhaps premature to speak as to the results of the changes which have thus been brought about.

We understand that in Toronto and Manitoba the Torrens system of registration of title is found to work well and smoothly. Some little friction was to be expected at first, but we believe that practice and experience are daily rendering the system more easily understood, and no doubt its benefits will, as time rolls on, be made more and more apparent when the unimpeachability of the registered title comes to be generally known.