

BENCH AND BAR.

ment was embodied in the following correspondence :

"Cornwall, Nov. 12th, 1874.

"DR. PRINGLE, CORNWALL :

"DEAR SIR,—I offer you one thousand dollars for three-quarters of the *north half* lot number twenty-one on the south side of Second Street, in this town—the three-quarters to be measured off the west side of the lot ; the depth of the property to be, at least, one hundred and thirty-two feet. [Here follow the terms of payment, which were not disputed.] Yours truly,

"(Signed) H. SANDFIELD MACDONALD."

"To H. S. MACDONALD,

"Cornwall :

"In consideration of the terms expressed in the foregoing letter, I hereby accept your offer for the property above mentioned, and upon the conditions you state above.

"(Signed) GEORGE PRINGLE.

"Cornwall, 12th November, 1874."

The words in italics were interlined, as sworn by the plaintiff, by the defendant himself, at the plaintiff's request, to prevent any mistake, the defendant at the timesaying it was unnecessary to do this, as the measurement showed that the bargain was only as to the north half of the lot. The deed which was supposed to carry the above agreement into effect was prepared by the defendant, but was a conveyance not of the west three-quarters of the *north half* but the west three-quarters of the *whole lot*, the words describing the depth as one hundred and thirty-two feet being omitted, as well as the words "*north half*." The defendant, in his examination, at first expressed a doubt whether the words *north half*, interlined in the letter signed by defendant, were in his handwriting, but on being pressed, asserted that they were not.

The case was tried before Mr. Vice-Chancellor Blake, whose judgment was substantially as follows :

"I find but one question to be answered. Was there a binding agreement between the parties for the sale and purchase of the west three-quarters of the north half of lot number

twenty-one on the south side of the street ? To determine this, it is necessary to decide the question—Is the copy of the agreement produced by the plaintiff, with the words '*north half*' interlined, in the same state that it was when it was handed by the defendant to the plaintiff ? Can it be found, from the evidence adduced, that the plaintiff was so utterly dishonest as to alter it ? Certainly not. He appears to have acted throughout as an honest man should. If the north half was not intended, why was the depth, one hundred and thirty-two feet, inserted ? If the defendant bought the whole lot, these words or figures could not give him an inch more. The depth was inserted in the agreement because the north half was intended. From the time of the first conversation with French down to the completion of the purchase, the defendant knew, and knew right well, that such was the understanding. He, in person, measured the land to that depth, and with his own hands planted a stake to mark the extent of his purchase. There was no room for misapprehension on his part ; he measured and marked it. If I am forced to conjecture between the two, I would certainly rather say that the defendant had forgotten that he had interlined the words '*north half*,' than that the plaintiff could be guilty of an almost criminal act in inserting them. To a certain extent the charge of fraud was laid against the defendant. As to the proof of fraud, the defendant's action spoke more loudly than words. Even taking the defendant's own copy of the agreement, there was a discrepancy between it and the deed, inasmuch as the '*one hundred and thirty-two feet*' contained in the former, were entirely omitted from the latter. The defendant knew that all the lots in the neighbourhood were two hundred and sixty-four feet deep, and therefore must have known that he was bargaining for a part of the north half only, and it would have been objectless inserting the words '*at least one hundred and thirty-two feet*' if it was intended to refer to the whole lot. It was clearly the duty of the defendant, who was a solicitor of this court, to draw the attention of the plaintiff to this change, but he had not done so. L. R. 5 E. & I. Ap. 64. As to the exceptions taken to the plaintiff's pleadings, there is nothing in them. I am clearly of opinion that the plaintiff has proved the allegations of the bill, and will grant a decree ordering the defendant to reform the deed, by re-conveying the portion of land to which he was not entitled, and that the defendant pay the plaintiff his costs in the suit."