

by the sale of the 30th December 1870. The breach complained of was simultaneous with the agreement itself. It seems to their Lordships impossible to say that the value of the property which the defendant purported to assign, but owing to prior events well known to both parties, did not assign, is to be ascertained at any later time than the 3rd March 1871. Some strong reasons might be advanced for taking the value on the 30th December when the 80 shares were sold, but their Lordships will not pursue that view because it would produce the same result as a valuation on the 3rd March.

C. J. Dorion's view is that the shares should be valued on that day, and he goes on to find that the plaintiff, whose business it was to show that the shares were of greater value on that day, has not done so. Their Lordships agree with this finding. From the evidence of Sibley, and of Learned the purchaser of the 80 shares, it is clear that the value of the property was a fanciful one, and subject to abrupt changes. It was not in the market at all. All sales were the result of personal negotiations. Sibley tells us that in March 1871 he bought a few shares at \$600 per share, and the next day was offered \$1,000. When prices can vary 66 per cent. in 24 hours no inference can be drawn as to the prices of one day from those even of the next. And here the evidence does not approach to the 3rd March by, it may be, three to four weeks. Sibley and Learned are both asked the price on that day. Sibley only says that, "in March," the shares could realize from \$500 to \$600. Learned says that he is as unable to give the value of the shares at that as at the present time, inasmuch as it is very fluctuating, and that "two or three months" after his purchase from the defendant he sold several parts for 500 dollars each. Shanley one of the trustees says, "I would not have held stock at any time in this Company for a week, if I had owned any at any time. If I could have got \$10,000 for 80 shares I would have taken it and have been glad to get it." He is speaking of \$10,000 American currency equal to \$9,000 Canadian currency. That is all the evidence bearing on the point.

There is then no difference in point of money whether the plaintiff receives compen-

sation by way of sharing directly in the \$9,000 as the price of shares sold for the partnership, or by way of damages at the rate of \$112.5 per share for those shares which by the terms of his contract he ought to have received, but has not received. If he were to receive more shares, and to be compensated for fewer, there would be a difference. But the difference would not be in his favour, because, even if the shares are worth anything at all, it is not suggested that they are worth anything like \$112.5. The appellant has objected to the decree, not on the ground that it gives him too few shares in specie, but on other grounds which have all failed. The only alteration which their Lordships think might possibly be made in the decree is one so slight that it would amount to an affirmation of the decree, with a small variation adverse to the appellant's interest. As between a decree so framed, and such a possible alteration, their Lordships do not feel called on to decide. It is better to dismiss the appeal.

Their Lordships will humbly advise Her Majesty in accordance with the foregoing opinion. The appellant must pay the costs of the appeal.

Appeal dismissed.

McLeod Fullarton, Q. C., and Cunningham, counsel for appellant.

Partridge & Co., solicitors in London.

Dunlop & Lyman, in Canada, for appellant.
Bompas, Q. C., and Cromwell-White, counsel for respondent.

Balton, Proffitt & Scott, solicitors in London.
R. A. Ramsay, in Canada, for respondent.

APPOINTMENTS.

The Hon. Edmund James Flynn, LL.D., Advocate, Commissioner of Railways, has been appointed to the office of Solicitor-General of the Province of Quebec.

GENERAL NOTES.

The Albany Lane Journal laments "the growing and reckless license of the press." "Nothing (it says) is safe or sacred. Knowledge is unnecessary; reason is superfluous; truth is immaterial; sensation is all that is required."