

Chan.]

NOTES OF CASES.

[Chan.]

of the undertaking and receiving no other compensation for their services. The shares however had not any money value whatever, and C. in his evidence swore that he had not thought of this stock when making up his schedule of assets, so utterly valueless was it. The Court [SPRAGGE C.] being of opinion that the excuse offered by C. was not untrue *held* that there was no fraudulent or even wilful omission in respect of such stock.

Prior to the time of C. making up his schedule he had, during the absence of the President of the road in England for about a year endeavoring to raise funds for carrying on the undertaking, acted as Vice-President and rendered services for which he hoped at some time to receive some compensation, but no promise, express or implied, had been made to him; subsequently, however, and after C. had applied for his discharge, a resolution was passed, granting him a sum of \$5,000, which was given more as a gratuity, and with a view of relieving him in his distress, than as a payment of a debt, and C. was unaware of the resolution of the Board granting this money until he had obtained his discharge.

Held, that, under the circumstances, it could not be considered there was in strictness any debt due to C.; and in any event that the non-insertion of the money in the schedule was not a fraudulent concealment within the meaning of the Act.

At the date of the insolvency a large number of shares of another railway was held by C. as trustee, such shares being of actual pecuniary value to C. as enabling him to be appointed a Director of the company, and for some years he received a salary as Director; and the stock was shown to have been worth about from 7 to 15 per cent, not on account of any anticipated dividends, but as a qualification for the Directorate. At the date of the insolvency C., according to the arrangement with the owners of this stock was bound at any time he might be called upon to re-transfer it, in consequence of his failure to "give value" to it, but he was not called upon to re-transfer, nor had he been at the time the cause was heard called upon to do so; and he stated in his evidence that he had been advised he could not properly insert this stock in his schedule of assets. Subsequently to the date of the deed of composition and discharge and the filing of the certificate of the assignee,

but eight days prior to the order of confirmation by the judge, C. acquired as his own property a portion of this stock.

Held, that his omission to bring such after acquired stock in by a subsequent schedule of assets was not a case of fraudulent concealment; and the bill by reason of the serious nature of the charges which the plaintiff must have established before he could succeed was therefore dismissed with costs.

REHEARING TERM.

CAMERON V. WELLINGTON GREY & BRUCE RAILWAY COMPANY.

Farm crossings—Parol agreement—"Make and maintain"—Construction of.

The plaintiff conveyed a right of way over his land to the defendants, and the deed contained a stipulation that "The company should make and maintain a farm crossing, with gates at the present farm lane." R., the company's engineer, treated for the conveyance, but had no power to agree for a second crossing. It was said, however, that he had promised, if he should find a second crossing necessary, he would, so far as in him lay, get it made, and the deed was executed upon this understanding.

Held, reversing the decree of PROUDFOOT, V. C., 23 Grant 95, that the defendants could not be compelled to make a second crossing for use in winter, the existing one being then impassable, and that upon the construction of the words above set forth, they were bound to continue the crossing, not to close it up or impair it, or alter its character as a farm crossing, but were not obliged to keep it free from snow.

PROUDFOOT, V. C., dissented.

Boyd, Q.C., for plaintiff.

Bethune, Q.C., for defendants.

IN RE LAWS, LAWS V. LAWS.

Husband and Wife—Wife's chose in action—Reduction into possession—Evidence—Statute of Limitations.

The widow of the intestate claimed against his estate for a sum of \$700, which she alleged he had borrowed from her after their marriage, and some years before his death, for the purpose