

they would not accept their stock and would have nothing more to do with the company, but no proceedings were taken by them to relieve themselves from liability; and no proceedings were taken against them until the company was wound up in 1891.

*Held*, distinguishing *Nichol's Case*, 29 Chy.D. 421, that as these persons had not a mere inchoate right to receive shares, but were actually shareholders and members of the company by virtue of the charter, mere statements of this kind and the lapse of time and the failure of the directors to enforce payment of the shares did not relieve them.

There is no liability to pay for shares until a call is made and notice thereof given to the shareholder, and until that time the Statute of Limitations does not begin to run against the company. Where, therefore, persons were named in the charter issued in 1880 as shareholders, they were in 1891 held liable to pay the amount of their shares, no formal call having in the meantime been made.

Judgment of the County Court of Peel affirmed.

*Shepley*, Q.C., for the appellants.

*Moss*, Q.C., for the respondent.

[Oct. 10.]

MORRISON v. WATTS.

*Trusts and trustee—Fiduciary relationship—Purchase of trust property—Assignments and Preferences Act, R.S.O., c. 124—Inspectors.*

A purchase by the assignee for the benefit of creditors of the assets of the estate made by him at the request of the inspectors of the estate, after futile efforts to sell at auction and by private tender, and after a circular letter was sent by the inspectors to each creditor stating that the sale would be made unless objection was taken, was set aside, there being evidence that at the time of the purchase the trustee knew of, and was negotiating with, a possible purchaser, to whom he afterwards re-sold at a large profit, and did not disclose this information to the inspectors.

Though the Assignments and Preferences Act, R.S.O., c. 124, does not clearly define the powers or duties of the inspectors of an insolvent estate, it would appear that they have no power, unless specially authorized by the creditors, to bind the creditors by anything they do

in disposing of the estate, the disposal of which is in the hands of the creditors, and, in default of directions by them, in the hands of the judge of the County Court.

Judgment of ARMOUR, C.J., affirmed, BURTON, J.A., dissenting.

*S. H. Blake*, Q.C., and *A. Watts* for the appellant.

*W. S. Bremster* for the respondent.

GOODERHAM ET AL. v. CITY OF TORONTO.

*Way—Public highway—Plan—Dedication—User—R.S.O., c. 152, s. 62—Municipal corporations—By-law.*

Section 62 of R.S.O., c. 152, which provides that all allowances for streets surveyed in cities or any part thereof which have been or may be surveyed and laid out and laid down on the plans thereof, and upon which lots of land fronting upon such allowances for streets have been or may be sold to purchasers, shall be public highways and streets and commons, is retroactive, and applies to streets laid out on plans made and registered before the passing of the Act.

A piece of land in Toronto of about twenty acres in extent was, in 1854, surveyed and laid out in lots and streets, and a plan was duly registered. Certain lots were sold and were conveyed according to the plan, but were afterwards repurchased by the original owners of the piece of land, predecessors in title of the plaintiffs, and the whole piece was then fenced in and used as a field until 1888, when the city, without passing any by-law, proceeded to open the streets.

*Held*, that the streets shown on the plan were highways which the city were entitled to open, but that a by-law was necessary.

Judgment of the Common Pleas Division, 21 O.R. 120, affirming, by a division of opinion; that of FERGUSON, J., affirmed.

*Moss*, Q.C., and *R. McKay* for the appellants.

*Robinson*, Q.C., for the respondents.

STEVENSON ET AL. v. DAVIS.

*Vendor and purchaser—Possession—Interest.*

This was an appeal by the plaintiffs from the judgment of the Chancery Division, reported