

make a title (*x*). But, even before delivery of an abstract, if the purchaser chooses to assume the title to be good, or if he act upon his own knowledge or opinion without seeing, or without asking to see, how the title is made out by the vendor, he may be concluded by his acts; especially in Ontario where titles are comparatively simple, and the formalities of conveyancing practice are not as strictly observed as they are in England (*y*).

(a) *Taking possession ; securing purchase money, &c.*

It has been said that taking possession is a waiver of objections to title; that the purchaser proceeds upon the supposition that the contract will be executed; and that he therefore agrees that from the day of taking possession he will treat it as executed (*z*). But the mere taking possession is in itself an equivocal act (*a*), and is not of itself a waiver of the right to an enquiry, though it is evidence of waiver which may have to be rebutted (*b*). The Court must be satisfied that it was the intention of the purchaser to take the land without an enquiry (*c*). And the act of taking possession is more lightly regarded in Ontario than it would be in England, where contracts of sale and investigations of title are conducted with more care and solemnity than in this Province (*d*).

Taking possession and making expensive alterations in a mill and its machinery were held to be an acceptance of the title (*e*). The principle is very tersely put by Spragge, V.C.,

(*x*) *Warren v. Richardson*, You. 1; *Bown v. Stinson*, 24 Beav. 631; *Denison v. Fuller*, 10 Gr. 498.

(*y*) *Commercial Bank v. McConnell*, 7 Gr. 331.

(*z*) *Fludyer v. Cocker*, 12 Ves. 27; and see *Fleetwood v. Green*, 15 Ves. 594, explained in *Burroughs v. Oakley*, 3 Swan. 165.

(*a*) *Simpson v. Sadd*, 4 D. M. & G. 672.

(*b*) *Hyde v. Warden*, L. R. 3 Ex. D. 72.

(*c*) *Micheltree v. Irwin*, 13 Gr. 542.

(*d*) *Micheltree v. Irwin*, 13 Gr. 541; *O'Keefe v. Taylor*, 2 Gr. 307; *O'Connor v. Beatty*, 2 App. R. 504.

(*e*) *Commercial Bank v. McConnell*, 7 Gr. 323.

as follows :  
title turns  
the hands  
it? If he co  
to me to b  
investigate  
evidence c  
So, accept  
a letter a  
money (*g*),  
not, in ger  
possession,  
security fo  
the land w  
of title (*h*).  
tract conte  
payments  
chase mon  
of infant h  
title of th  
twice for a  
money are  
on title aft  
in possessi  
after notic  
cluded the  
silence m  
Court will

(*f*) P. 331  
very strong;

(*g*) *Margra*  
Gr. 290.

(*h*) *Haydon*

(*i*) *Darby* v

(*j*) *McDona*

(*k*) *Denison*

(*l*) *Pegg v.*

(*m*) *Rae v.*

A. T.—