

DECISIONS IN COMMERCIAL LAW.

ADAMSON V. ROGERS.—The lessee of a water lot, who had made crib-work therein and filled it in with earth to the level of adjoining dry lands, and thereby made the property available for the construction of sheds and warehouses, claimed compensation for the works so done under a proviso in the lease by the lessor to pay for "buildings and erections" upon the leased premises at the end of the term. The Supreme Court of Canada decided that the crib-work and earth-filling became part of the ground leased, and were not "buildings and erections" within the meaning of the proviso.

ROBERTSON V. JUNKIN.—J. and his brother carried on business in partnership for over thirty years, and the brother having died, his will contained the following bequest: "I will and bequeath unto my brother J. all my interest in the business of J. & Co., in the said city of St. Catharines, together with all sums of money advanced by me to the said business at any time, for his own use absolutely, forever, and I advise my said brother to wind up the said business with as little delay as possible." The Supreme Court of Canada decided that J. on accepting the legacy could not be called on to contribute to any deficiency in the assets to pay creditors and did not lose his right to have the accounts taken in order to make the estate of the testator pay its share of such deficiency.

CARROLL V. PROVINCIAL NATURAL GAS AND FUEL CO. OF ONTARIO.—C. by agreement of 6th April, 1891, agreed to sell to the Erie County Gas Company all his gas grants, leases and franchises, the company agreeing, among other things, "to reserve enough to supply the plant now operated or to be operated by them

on said property." On 20th April a deed was executed and delivered to the company, transferring all the leases and property specified in said agreement, but containing no reservation in favor of C. such as was contained therein. The Erie Company, in 1894, assigned the property transferred by such deed to the defendants, who immediately cut off from the works of C. the supply of gas, and an action was brought by C. to prevent such interference. The Supreme Court of Canada decided that as the agreement was embodied in the deed subsequently executed, the rights of the parties were to be determined by the latter instrument, and, as it contained no reservation in favor of C., his action could not be maintained.

FLOOD V. VILLAGE OF LONDON WEST.—The doctrine that the occupant of a carriage is not identified as to negligence, with the driver, applies only where the occupant is a mere passenger, having no control over the management of the carriage. Where, therefore, the hirer of a carriage allows one of his friends to drive, and an accident results from the latter's negligence, the former cannot recover, according to the Court of Appeal.

FROWDE V. PARRISH.—A person resident in England, who procures a book, for valuable consideration, to be compiled for him, is the proprietor thereof, and entitled to copyright the same under the Dominion Copyright Act; and printing and publishing the same from stereotype plates imported into Canada is a sufficient "printing" within the meaning of the Act, though no typographical work is done in preparation thereof. American reprints of the plaintiff's copyright book called "Helps to the Bible," added as an appendix to American reprints of the Bible imported into Canada, were

held by the Court of Queen's Bench to be a violation of the plaintiff's rights.

DOLL V. HOWARD.—Action by the indorsee of a promissory note against the maker. The defence was fraud on the part of the payee, and that the plaintiff was not the holder in due course or an indorsee for value. The alleged fraud was that the note was given to W. F. Doll, the payee, the husband of the plaintiff, in part payment of certain stock in the Winnipeg Jewellery Company, and that the defendant was induced to buy the stock through untrue representations made by him as to the value of the stock-in-trade of the business carried on by the company, as to the assets generally, and as to the liabilities; that he represented that the shares of the company were worth par value, whereas they were not worth anything, and had no real value. Evidence was given as to the alleged representations and their untruth. The trial judge found that the representations were made by Doll, and that when he made them he knew them to be untrue; but the defendant, after he became aware of the misrepresentations, did not repudiate the contract, but continued to carry on the business and renewed some of the notes, as he stated, to "stand off" Doll until he could get further evidence. The Court of Queen's Bench, of Manitoba, decided that a contract induced by fraud is not void but voidable at the option of the party deceived. Where a man once has notice that he has been defrauded and does not repudiate the contract, the subsequent discovery of the fraud will not justify his doing so. In this case, the business was carried on for over two years after the defendant knew of the misrepresentation. In consequence of his delay and acts of acquiescence, he had lost his right to succeed.

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