

Full Court.] AMERICAN ABELL CO. v. McMILLAN. [June 14.

*Dominion Lands Act—Charge on land created by homesteader before recommendation for patent—Declaration of Minister of Interior as to effect of such charge—Estoppel.*

Appeal from decision of MATHERS, J., noted ante, p. 248, dismissed with costs, HOWELL, C.J.A., dissenting.

A. B. Hudson, for plaintiff. Johnston and Berguron, for defendant.

Full Court.] ANDREWS v. BROWN. [June 14.

*Fixtures—Conditional sale of chattels—Lien note—Purchaser without notice.*

If a purchaser of a chattel such as a furnace annexes it to land in such a manner that it would ordinarily become a part of the realty, it cannot be deemed to remain a chattel because of an agreement between the purchaser and the vendor that, until paid for, the property in it should remain in the vendor and that, in case of default of payment, the vendor might detach it and take it away.

Such an agreement merely confers a license to enter on the land and sever what is no longer a chattel so as to make it again a chattel and to remove it, and a purchaser of the realty without notice of the agreement is not bound by it, nor can the vendor of the chattel recover possession of it or damages for its conversion from him. *Hobson v. Gorringe* (1897) 1 Ch. 182, and *Reynolds v. Ashby* (1904) A.C. 466, followed; *Waterous v. Henry*, 2 M.R. 169, and *Vuncan Iron v. Rapid City*, 9 M.R. 577, overruled.

Coyne, for plaintiffs, Wilson, K.C., for defendants.

Full Court.] [June 14.

REX EX REL. TUTTLE v. QUESNEL.

*Practice—Quo warranto—Civil or criminal proceeding—King's Bench Act, R.S.M. 1902, c. 40, s. 92, rule 1.*

Quo warranto proceedings to test the right of a person to hold a seat as school trustee are purely civil proceedings and an application for leave to file an information by way of quo warranto for such a purpose is properly made by notice of motion and not by rule nisi.