

Held, that the direction was wrong, as it was calculated to mislead the jury to suppose that a felonious intent subsequent to the finding was sufficient.

[In this case it was submitted, that the nature of the property was such that the finder could not do otherwise than believe that the owner might be found. And that having converted it to his own use under these circumstances, it might be inferred that it was his intention to do so at the time of finding.

The inference was disallowed on considering all the concomitants of the case by Pollock, C. B.]

V. C. W. GROSVENOR v. GREEN. Dec 13.

Vendor and Purchaser—Purchase of Lease—Notice—Specific performance.

Leasehold property was put up for sale without any statements in the condition of sale or otherwise as to the nature of the covenants contained in the lease. The lease contained a covenant against carrying on certain specified trades or any other noisome or offensive trades.

Held, that the purchaser was bound and must be taken to have informed himself of the contents of the lease, and that he was not entitled to compensation or to be discharged from the contract by reason of the covenant against trade.

L. J. RAWLINS v. WICKHAM. Dec 13, 14, 15, 16.
WICKHAM v. BAILEY.

Fraud—Misrepresentation—Scientia—Opportunity of ascertaining the truth—Setting aside contract—Partnership—double remedy at law and in equity.

B and W were partners in a Bank. B being the managing partner and W not interfering or knowing anything of the state of the business. They negotiated with the plaintiff to take him into the partnership, and during the negotiation W showed the plaintiff a written statement of the debts and credits of the bank, from which it appeared that the bank was solvent. This statement was false to the extent of several thousand pounds, the bank really being insolvent, but W was ignorant of the fraud, the plaintiff joined the firm and remained in it for four years, during which time he never examined the books or discovered the fraud. At length the business was sold and the fraud detected. The plaintiff brought an action at law against B (W being dead) upon the fraud and recovered damages, B became insolvent and the plaintiff then filed a bill against B and the representatives of W to set aside the contract for partnership, and to make W's estate liable to indemnify the plaintiff against the claims of the creditors.

Held, that the plaintiff was entitled to the relief prayed. If on the treaty for a contract a party makes a representation as to a fact of which he knows nothing and the representation turns out to be false, he is equally liable as if he knew it to be false.

If, upon the treaty for a contract, a party makes a false representation as to part of the matter of such a nature as to induce the other party to enter into the contract, the Court will not rectify the contract *pro tanto* but will set it aside altogether.

The fact that the plaintiff never attended to the business or examined the books and so remained in ignorance of the fraud did not bar his rights, it not being his duty as between himself and his co-partners to do so; and there being no suggestion that they had complained of his inattention to the business or that the bank had suffered from his negligence.

The fact of the plaintiff having brought an action against the surviving partner did not prevent him proceeding in equity against the estate of the deceased partner.

V. C. K. POTTER v. PARRY. Jan. '5.

Specific performance—Covenant—Fences—Highway.

When in a suit for specific performance it appears that a covenant has been entered into by a former purchaser of the property for himself, his appointees, heirs, and assigns (to the interest that it should run with the land), with the owners and occupiers for the

time being of certain adjoining lands, at all times thereafter, at his and their expense, to make and maintain the boundary fences between the lands and abutting on a road (afterwards made), the question of the obligation being binding on a future purchaser, is too doubtful to admit of the title being forced upon him.

Seem, there is no general law imposing the obligation on the owner or occupier of lands abutting on a public road to keep up the fence.

V. C. W. Dec. 2, Jan. 14.

TAYLOR v. GREAT INDIAN PENINSULA RAILWAY COMPANY.

Vendor and Purchaser—Transfer of shares in blank—Agency—Fraud.

A who was a holder of £20 and £2 shares in a railway company instructed B his broker to sell sixty of his £2 shares. B brought to A for his signature two deeds of transfer, the numbers and particulars of the shares, and the name of the transferee in which were left in blank. The transfer deeds which bore a stamp sufficient to pass sixty £20 shares were signed in this state by A in the belief that his £2 shares would be thereby transferred.

B fraudulently offered for sale upon the stock Exchange A's £20 shares which were purchased by C at the market price. The certificates and the blank transfer deeds were handed to C who subsequently filed in the number of the shares and the name of the transferee.

Held, that notwithstanding the negligence of A in signing the transfer deeds in blank, and in not taking notice of the stamp upon them, C who had taken an instrument on the face of it passing no interest and void in law was not entitled to rely on his purchase which was accordingly set aside, the court refusing to recognize an alleged custom between brokers and jobbers of accepting blank transfers in shares for the purpose of avoiding the stamp.

REVIEW.

THE ATLAS; A weekly Family Journal devoted to News, Choice Literature, Entertainment, Improvement and Progress. Hamilton, C. W.

We have received the first number of this very neat and promising Journal. It is designed to supply a void which has hitherto existed in Canadian Literature,—a Canadian family paper. If well conducted, both as to selections and original articles, the people of this Province will, we are sure, be too glad to patronize this home production.

Up to this time, we have observed with regret the growing circulation in this Province of American trash dressed up to represent general literature. We have no confidence in such literature. Often do we find that in them the little wheat which one gathers is all but smothered with briars and thorns.

We welcome the Hamilton *Atlas*, and hope that notwithstanding the hardness of the times the object of the projectors will be fully and effectually attained.

APPOINTMENTS TO OFFICE &c.

CORONERS.

JAMES SMITH, Esquire, M. D., Associate Coroner, County of Kent.—(Gazetted, May 15th, 1859.)

JAMES MILLER, Esquire, M. D., Associate Coroner for the County of Kent.—(Gazetted, May 21st, 1859.)

NOTARIES PUBLIC.

JOHN THOMPSON HUGGARD, of Stratford, Esquire, to be a Notary Public in Upper Canada.

JOSEPH RYERSON BOSTWICK, of Port Stanley, Esquire, to be a Notary Public in Upper Canada.—(Gazetted, May 14th, 1859.)

CALVIN DONALDSON HOLMES, of London, Esquire, Attorney at Law, to be a Notary Public in Upper Canada.—(Gazetted May 28th 1859.)

TO CORRESPONDENTS.

LEX.—Under "Division Courts."

A LAW STUDENT.—Too late for insertion in this number.