agreement to use plaintiff's wharf for the vessel, the wharfage being fixed at $300, and plaintiffs' executed a document prepared for execution by intending stockholders, and gave two notes for $250 each, at three and six months, the first of which plaintiffs' paid, but not the latter. The vessel was brought to Toronto and ran between Toronto and the Humber, using the plaintiffs' wharf as agreed upon. Some $9000 stock was subscribed, and a meeting of stockholders held and resolutions passed as to the formation of the company, and appointing defendant H. and one B. trustees to receive a conveyance of the vessel in trust for the company until formed. It was admitted that the Ontario Act did not authorise the formation of the company, which was never formed, nor was there any conveyance of the vessel to the trustees, in fact the whole project appeared to have been abandoned. The plaintiffs not having been paid the $300, being the wharfage for the season of 1876, which was charged against the vessel, sued defendant as registered owner.

Held, that they were entitled to recover: that plaintiffs by their subscription for stock, under the circumstances, could not be deemed to be joint owners or co-partners in the vessel; nor could defendant set off the amount of plaintiffs' stock note, for not only had the consideration for it wholly failed; but that it would be a matter alone between the plaintiffs and the company, if formed.

Maclennan, Q. C., and *Biggar*, for the plaintiffs.

Robertson, Q. C., for the defendant.

Bunker v. Emmany.

Chattel mortgage—Verbal assent of mortgagee to parting with goods—Effect of in equity—Absence of redemise clause.

The plaintiff, J. B., executed a chattel mortgage to H. B., of certain goods stated to be in the mortgagor's possession, with defeazance on payment within a year, but without a redemise clause. It contained the covenants as to payment, entry on non-payment, or in case the mortgagor should attempt to sell or dispose of or in any way part with the possession of the goods or any of them or remove the same, &c., without the written assent of the mortgagee first had and obtained. The usual statement as to putting the mortgagee in possession was struck out. H. B. assigned to the defendant. Subsequently J. B. claiming to have the defendant's verbal assent sold some of the goods to H. B., when the defendant entered and took the goods. In an action by the mortgagor for such taking,

Held, that defendant was entitled to the goods: that even if in equity a verbal assent is sufficient when it is admitted or clearly proved to have been given and acted upon, the evidence here failed to clearly establish that such assent was ever given.

Held also, that even if the plaintiff were entitled to recover, it could only be to the extent of his interest in the goods.

Quære, as to the effect of the absence of the redemise clause on the particular form of this mortgage.

M. C. Cameron, Q. C., for the plaintiff.

Hector Cameron, Q. C., for the defendant.

Bickford v. The Great Western Railway Company.

Contract—Performance—Evidence.

The plaintiff sued the defendants on an alleged contract between the plaintiff and defendants under which the plaintiff was to deliver to the defendants 540 tons of new steel rails in exchange for 2970 tons of old iron of specified description; alleging that the plaintiff had delivered to the defendants the new rails, but that the defendants had not delivered to the plaintiff old iron in accordance with the contract, but of an inferior quality, whereby &c.,

It was *held* that the plaintiff could not recover; that the evidence showed that the only contract upon which defendants could be held liable, and which was contained in a letter written by defendants' managing director, had been fully performed, while a different contract attempted to be set up by the plaintiff, and contained in his reply to the above letter, had never been accepted by defendants.

Hector Cameron, Q. C., and *G. D'Arcy Boulton*, for the plaintiff.

Robinson, Q. C., and *McMichael*, Q. C., for the defendants.

Jenkins v. Strong.

Title by possession of part of adjoining lot—Estoppel by acts and conduct from setting up title against purchaser of adjoining lot.

In 1836, the plaintiff became the owner of lot 22, in the fourth concession of Verulam, and occupied by mistake as part of lot 22, the land now in question, being part of lot 23, and