

Where a person was induced to undertake work for another for a certain sum upon a fraudulent misrepresentation of the quantities, and, after discovering the fraud, continued and completed the work, it was held that he could claim payment only according to the contract price: *Selway v. Fogg* (1839), 8 L.J. Ex. 199, 5 M. & W. 83.

Where a person had been induced by fraudulent misrepresentations to take a lease of a mine and had continued to work the mine after discovery of the truth, he was held to have lost the right of disclaiming the lease: *Vigers v. Pike* (1842), 8 Cl. & F. 562.

Where the party defrauded, after full knowledge of the fraud, gave notice that he insisted on the performance of the contract by a certain time, otherwise he should consider it at an end on the ground of the delay, he was held to have affirmed the contract, though it was not afterwards performed within the time stated: *Macbryde v. Weekes* (1856), 22 Beav. 533.

Misrepresentation by the director of an incorporated company inducing a contract between him and the company gives the company the right, not merely to a future judicial rescission of the contract by a judgment of the Court, but to repudiate the contract by its own act: *Denman v. Clover Bar Coal Co.*, 7 D.L.R. 96, affirmed 15 D.L.R. 241.

Where the plaintiff was induced to buy shares of the capital stock of an insurance company upon its manifesting and expressing a "fixed intention, readiness and capacity" to commence its regular insurance business in a certain city on a fixed date, the existence or non-existence of that "intention" is a fact, and, if the plaintiff entered into the contract to buy and parted with the purchase price on the faith of the statements made in respect of such intention, and those statements were material, his right (if misled) to rescind the contract is the same as if he acted on and was misled by a representation of any other material fact. (*Per Fitzpatrick, C.J.*): *International Casualty Co. v. Thomson*, 11 D.L.R. 634, 48 Can. S.C.R. 167, affirming *Thomson v. International Casualty*, 7 D.L.R. 944.

Bench and Bar.

OBITUARY

HON. SAMUEL BARKER, K.C., M.P.

Mr. Barker who passed away on June 25th last at his residence in Hamilton was at one time as prominent in legal circles as he has since been in political and business lines.

Mr. Barker was born in Kingston on May 28, 1839. He received his earlier education at the London Grammar School, London, Ont., and in that city entered upon the study of the law with the late Henry C. R. Beecher, Q.C. On his admission to the Bar in 1861 he entered into partnership with Mr. Beecher, a connection which continued for many years. In 1872, W. P.