His lease demises to him the promises, "with the privileges and appurtenances thereunto belonging or used therewith;" and the evidence shews satisfactorily that the "privilege" of having this window free from obstruction, for the display of goods, is of great importance to him in his business. It was a privilege used and enjoyed with the shop at and before the time the plaintiff's lease was executed, and I know no ground on which I could hold that it did not pass with the lease.

Riviere v. *Bowan*, R. & Moody, 22, seems precisely in point as to the plaintiff's right of suit. That was an action on the case, The plaintiff was proprietor of a house which he divided into two tenements; one he retained in his own occupation, using it as a gunsmith's shop, with a window projecting so as to display his goods, by a side-view, to passengers going up and down the street. Afterwards he let the adjoining tenement to the defendant, who was a bookseller. The defendant was in the habit of fixing, by a screw to his door-post, a movable case containing books, which came so near to the plaintiff's window as to obstruct the view of the goods on one side of the window. *Abbott*, C. J., held, "that the action was maintainable against a person holding as tenant for an obstruction to a window existing in the land ord's house at the time of the demise, although of recent construction, and that although there should be no stipulation at the time of the demise against the obstruction."

The learned counsel for the defendants did not attempt to distinguish that case from the present, but contended that it had been overruled by the late case of *Smith* v. *Owen*, before Vice-Chancellor Wood. But the judgment, as given in the *Weekly Reporter*, Vol. 14, p. 422, contains nothing that would justify me in taking that view of the decision.

The learned counsel further contended that an injunction cannot be granted to restrain interference with a prospect or view, and that this is substantially what the plaintiff seeks.

Now it is clear that a party cannot claim, either at law or in equity, a right by prescription to a prospect or view, as he may to light or air; for it has been long ago held in reference to such a claim that "for a prospect, which is a matter only of delight, and not of necessity, no action lies for stopping thereof," 9 Co. 58 *b*. "Why may I not build up a wall that another man may not look into my yard? Prospects may be stopped, so you do not darken the light," *Knowles* v. *Richardson*, 1 Modern, 55. But I apprehend that it is equally clear, that if the owner of property contracts, expressly or by implication, not to erect upon the property any building that would obstruct another's view, such a contract is binding, and should, if necessary, be enforced by injunction. If on such a point any authority is necessary, it is sufficient to refer to *Attorney-General* v. *Doughty*, 2 Ves. Sen. 453, and *Piggott* v. *Stratton*, 1 DeG. F. & J. 33.

It was further argued, that the injury here is too small to be appreciable. But the defendan Wharin's deposition is of itself an unequivocal answer to that contention.

It is said also, that the plaintiff has been guilty of laches. This objection is not taken by the answer, and I think it is not sustained by the facts.

The defendant Wharin says he had no desire to injure the plaintiff by placing the show-case where it is; that he has had it so constructed as to interfere as little as possible with the view of the plaintiff's window; and that the show-case is of great service to the defendants in their business. I have no doubt as to the truth of these statements. But it is manifest, that if the plaintiff has a right to the view of his window free from obstruction, as I think it clear that he has, the defendants cannot be permitted to violate that right, though they do not do so in wantonness, but in order to make their own business more profitable.

The plaintiff being entitled to the window as a means of displaying and advertising his wares, I think the injunction must go as prayed.

GORDON v. YOUNG.

Insolvent act—Preference.

The Insolvent Act of 1864 does not invalidate conveyances previously executed, and which were valid at the time of their execution.

A mortgage of chattels to a creditor by a person in insolvent circumstances, not made with the intent of giving such creditor a preference, but under pressure, and to obtain an extension of time, under the expectation of being thereby enabled to pay all his creditors in full—is not void under the enactments against preference—22 Vic. ch. 26, sec. 18.

Examination of witnesses and hearing, before Vice-Chancellor *Mowat*, at Goderich, in the Spring of 1866.

Toms for the plaintiff.

Blake, Q. C., for the defendant.

MOWAT, V. C.—The plaintiff in this case is assignee under the Insolvent Act of the estate and effects of Thomas B. VanEvery and George Rumball, forwarders and produce dealers, and the object of the suit is to impeach two bills of sale, by way of mortgage, executed by VanEvery & Rumball, on the 29th of June, 1864, whereby they bargained and sold to the defendants Young & Law certain shares in two schooners, subject to redemption on payment of an antecedent debt due Young & Law, amounting to $24,563.55, and which was, by the terms of the mortgages, to be paid, with interest, at certain future dates therein specified.

The plaintiff charges, and the evidence, I think, establishes, that, at the time these instruments were executed, the debtors were in insolvent circumstances, and unable to pay their debts in full. I think it proved, also, that the mortgages were executed by them reluctantly, and under great pressure on the part of Young & Law; that Young & Law were at the time aware of the embarrassments of the debtors; but had reason to believe they were solvent, the debtors having taken the utmost pains to satisfy them that this was so. The evidence establishes, that the debtors expected they would be able, if allowed to go on with their business for 1864, to pay all their debts in full; that their object in consenting to give the mortgages was to secure the extension of time thereby given, so as to enable them to go on with their business; that they considered the transaction for the benefit of all their creditors: and that they had no desire to give a preferenee to Young & Law, if they could avoid it.

Relieved, by giving the mortgages, from the pressure of this large debt, they proceeded with their business, but the season proved a disastrous one to them. They met with heavy losses in