

Held, 1. After the city council had authorized the issue of the license the signing of the same by the mayor and the inspector was a mere ministerial act, and that it did not lie with them, or either of them, to defeat the will of the council by refusing to sign or deliver the license, and that there was error in the conviction under the facts shewn.

2. Where the city council grants a license illegally, express power for the cancellation of the license is contained in the statute, but there is nothing in the scope of the statute to justify the officer entrusted with the formal duty of carrying out the council's instructions in saying that he has any control as to the question of license or no license.

Tobin, for defendant. *O'Hearn*, for informant.

Province of Manitoba.

KING'S BENCH.

Macdonald, J.]

GRAHAM v. DREMEN.

[Jan. 11.]

Specific performance—Damages in lieu of—Implied warranty of title to land.

The plaintiff sold and conveyed to the defendant certain property and accepted an assignment by the defendant to him of an agreement for the purchase of certain lots from one Sesslu as payment of \$450 on account of the purchase money of the property so'd to the defendant. It turned out that the agreement under which defendant held the lots had been cancelled prior to the assignment by him and that he then no longer had any interest in the lots. The trial judge found, however, that the defendant had acted in perfect innocence and with the honest belief that he was still interested in the lands, he being a foreigner with a lack of understanding of the English language, also that the defendant had not expressly guaranteed the title to the lots or assured the plaintiff that the title was all right with any clear understanding of the meaning of what he was saying in answer to the plaintiff's questions.

Held, that, nevertheless, he had impliedly represented that he had the equity or interest in the lots which he assigned, and