Held, reversing the judgment of the County Court, that the distress was illegal.

Held, also, that there was no presumption that the defendant had received lawful authority, because it was conceded that he acted as Collector in levying the taxes.

McCarthy, Q.C., for the appellant.

Bethune, Q.C., for the respondent.

Appeal allowed.

From Chy.] [March 30.

CRAIG V. CRAIG.

Easement—Specific performance.

An agreement to grant an easement will not necessarily be for an easement in perpetuity.

Specific performance of an agreement to grant an easement may be enforced in equity.

A verbal agreement was entered into between the owners of two adjoining half-lots, that each should give a strip of equal width from his land, for a lane from the public highway to the clearing which they should make upon their respective lots—the agreement not being expressly limited as to time. In accordance with the agreement a rail fence was built by each on their respective sides of the lane, which they used in common for fifteen years, until the death of one of the parties. Upon a bill filed to restrain the defendant from closing up the portion of the lane situate on his land, it was proved that the greatest part of the lane was on the defendant's land: that there had been no expenditure on the plaintiff's land, or on the lane upon the faith of this agreement: and that the lane was merely kept open by mutual agreement.

Held, that specific performance could not be enforced as the site of the fence and user of the included land could not be referable to the original agreement; but even if the lane had been composed of equal portions of the land of each proprietor, under the circumstances no agreement to keep it open in perpetuity could be presumed.

Ferguson, Q. C., (with him *Bain*) for the appellant.

Boyd, Q. C., for the respondent.

Appeal allowed.

From Chy.] [March 30.

BOTHAM V. KEEFER.

Jurisdiction—Partnership.

The plaintiff, as assignee of the firm of S. J. & Co., which had been placed in insolvency under a writ of attachment against S. J. & M., filed a bill against the defendant, seeking to have him declared a partner of S. J. & Co., and to vest his property in the plaintiff as assignee of the firm. A decree was made as asked. The objection was taken to the jurisdiction of the Court of Chancery to make or entertain such a bill for the first time in the reasons against the appeal.

Held, that the Court of Chancery had jurisdiction to declare the defendant a partner; as upon proof of the partnership the plaintiff would have been entitled to have the partnership accounts taken; but that Court had no power to vest the defendant's property in the plaintiff.

Where there has been a contribution of capital as well as participation in the profits accruing from that capital, a partnership will be inferred, even though the parties agree that they will not call themselves partners, or did not intend to constitute that relationship.

M. C. Cameron, Q.C., with him *R. Hoskin*, for the appellant.

C. Moss for the respondent.

Appeal dismissed.

QUEEN'S BENCH.

IN BANCO—HILARY TERM.

MARCH 15.

REGINA V. PRETTIE.

Conviction—Conflict of Jurisdiction of Dominion and Local Legislatures—Liquor, sale of.

The defendant was convicted in a municipality where the Temperance Act of 1864 was in force. The information stated that defendant did "keep and have fermented liquors for the purpose of selling, bartering, or trading therein without the licence therefor by law required." The conviction was for that the defendant "did unlawfully keep liquor for the purpose of sale, barter, and traffic therein without the license therefor by law required."

Held, that it was a conviction under 37th Vict., ch. 32, sec. 25 O., and was improper; that the conviction should have been under the Temperance Act of 1864, sec. 12, for keeping liquor at all, and not for keeping it "without the license therefor by law required."

The conflict of jurisdiction between the Dominion and Local Legislatures under the power