

on all points save two; on which two there is certainly no very definite expression of opinion on the part of those learned Judges.

One of those points appears to be this, that they seem to have considered that certain Reports, dated in December, 1857, and in July, 1858, had been handed over by the Secretary of the Company to the Respondent, with a representation, either direct or indirect, that those Reports contained an accurate statement of the then existing condition of the Company; they having been given by the Secretary to the Respondent in, I think, the month of September, 1858, about a twelvemonth after the making of one Report, and three months after the making of the other.

The other point in which the Lords Justices also do not express anything like a decided opinion is an alleged representation made by the Secretary of the Company to the Plaintiff, that the Company had an indefeasible title to certain lands; upon which the Lords Justices, in effect, say that they are unable to tell whether the Company had a defeasible or an indefeasible title, but that they find that the Company have been advised by an eminent counsel that the title was defeasible; and, therefore, giving no opinion on the point, and consequently not deciding whether the representation was true or false, the Lords Justices have mainly founded their decision upon that uncertain expression of opinion.

My Lords, the nature of the case made by the Plaintiff is, that the transaction ought to be rescinded on the ground of misrepresentation. Your Lordships are well aware that whenever an application is made to a Court of Equity to set aside a conveyance that has been made, the jurisdiction of the Court of Equity for the purpose must be founded on something amounting to fraud—and if the ground alleged be mis-