

Sup. Ct.]

NOTES OF CASES.

[Sup. Ct.]

tion. The deed from Caldwell to respondent was not recorded until 1871, and appellant's solicitor, in searching the title, did not search under Caldwell's name after the registry of the deed by which the title passed out of Caldwell in 1862, and did not therefore observe the deed creating the easement in favour of plaintiff. There was evidence, when one's attention was called to it, that respondent had no separate wall, and the northern wall above appellant's building could be seen.

Held, (GWYNNE, J., dissenting), that the continuance of illegal burdens on the plaintiff's property since the fee had been acquired by him, were in law fresh and distinct trespasses against the plaintiff for which he was entitled to recover damages unless he was bound by the license or grant of Caldwell.

2. That the deed creating the easement was an instrument requiring registration under the provisions of the Nova Scotia Registry Act, 4 Series Rev. Stat. N. S., ch. 79. secs. 9 and 19, and was defeated by the prior registration of the subsequent purchaser's conveyance from Caldwell for valuable consideration, and therefore from the date of the registration of the conveyance to Forman, the deed of grant to respondent became void at law against Forman and all those claiming title through him.

3. That there was no actual notice given to the appellant such as to disentitle him to insist in equity on his legal priority acquired under the statute.

Thomson, Q.C., for appellants.

Rigby, Q.C., for respondent.

Appeal allowed with costs.

GUILFORD V. ANGLO FRENCH S. S. CO.
Master of ship, dismissal of—Shareholder in ship—Damages—Misdirection—New trial.

This was an appeal from a judgment of the Supreme Court of Nova Scotia, making absolute a rule *nisi* to set aside a verdict of \$2,000 damages.

The action was brought by appellant against respondents to recover damages for an alleged breach of contract. The plaintiff was Master of S. S. George Shaltuck, trading between Halifax and St. Pierre. She was owned by defendant Company, the plaintiff being one of the largest shareholders of the Company. Plaintiff's con-

tract was that he was to supply the ship with men and provisions for the passengers for \$900 a month, afterwards increased to \$950. The ship had been originally accustomed to remain at St. Pierre 48 hours, but the time was afterwards lengthened to 60 hours by the Company, yet the plaintiff insisted on remaining only 48 hours against the express directions of the Company's agent at St. Pierre, and was otherwise disobedient to the agents, in consequence of which he was on the 22nd May, without prior notice, dismissed from the service of the Company.

The case was tried before Sir W. YOUNG, C.J., without a jury, who gave judgment in favour of appellant for \$2,000, and in estimating damages the learned Judge considered the appellant to be a part owner in the steamer, and that he was not a master in the ordinary sense. The verdict was set aside by the Supreme Court of Nova Scotia.

Held, that appellant, although a shareholder, had no title whatever to any share of the ship, and that damages were allowed upon an erroneous principle; that a new trial was properly ordered in order to determine whether irrespective of the appellant being a shareholder, the causes of dismissal relied upon and the evidence given thereof were sufficient to justify dismissal without notice.

Thompson, Q.C., for appellant.

Rigby, Q.C., for respondent.

Appeal dismissed with costs.

TROOP ET AL. V. HART.

*Trover—Sale—Lien—Insolvent Act, 1875
Prevailing on estate—Effect of*

This was an action of trover, charging the appellants with converting 250 barrels of mackerel, which were the property of W. M. Richardson, the respondent's assignor. One of the branches of the appellants' business, was the supplying of merchants who were connected with the fishing business in the country, and who in return sent them fish, which was sold, and the proceeds placed by appellants to the credit of their customers. One Shaw, who so dealt with appellants, in October, 1877, sent 77 barrels of herrings and 236 barrels of mackerel; and, on the 3rd November same year, while these fish were in the store of appellants, sold the 236 barrels of