

and Mr. Poussette, as secretary, that his offer to sell the lots at the price mentioned had been accepted.

The directors then passed a resolution by which the company agreed to assign to Charlotte Carton, wife of George Carton, and on the same day (19th September) the company, in consideration of \$1, assigned to her all their rights and interests under the offer and acceptance, and all their right, title, and interest in the lands.

By the action specific performance is sought of what is alleged by the plaintiff to be a binding agreement to sell.

Two questions arise for determination in this case. First, did the offer of defendant, by reason of its containing the words "to be open and irrevocable for 6 months," prevent its withdrawal or revocation by defendant prior to acceptance within the time limited. Second, was the service of notice of retraction on Mr. Poussette, the secretary of the company, sufficient notice?

As to the first question, it was admitted, that there was no consideration moving from the company to defendant for the offer made by him. And Mr. Pollock in his work on Contracts, 6th ed., p. 24, says: "An offer may be revoked at any time before acceptance but not afterwards. For before acceptance there is no agreement, and therefore the proposer cannot be bound to anything. So that, even if he purports to give a definite time for acceptance, he is free to withdraw his proposal before that time has elapsed. He is not bound to keep it open unless there is a distinct contract to that effect founded on a distinct consideration."

The words "to be open and irrevocable for 6 months" cannot, in my opinion, alter the rights or power of the person making the proposal, for it is not the less a nudum pactum, although having these words in it, and is not binding on the promisor. . . .

[Reference to *Dickinson v. Dodds*, 2 Ch. D. 463; *Warner v. Millington*, 3 Drew. 523; *Larkin v. Gardiner*, 27 O. R. 123, and the cases there cited.]

As to the second question. Consolidated Rule 159 reads: "Where a corporation is a party to a cause or matter, a writ or summons or other document may be served on the . . . president or other head officer . . . or on the cashier, treasurer or secretary, clerk or agent, of such corporation." . . .