

be "separate from the sale agreement." I do not desire to be led aside from the theme into a discussion of the wisdom or justice of this legislation. That is a topic which might be fruitfully discussed by itself. Under this state of the law, at least one case arose where the agreement to pay commission was in the hand-writing of the defendant, or his agent and incorporated in the acceptance of the offer to purchase and signed by the defendant, and out of the mouth of the defendant were proved (1) his signature (2) his knowledge of the contents (3) that the plaintiff had been instructed by him to sell the defendant's property (4) that the defendant knew the plaintiff to be carrying on the business of a real estate agent, and (5) that the plaintiff had been the effective means of selling the defendant's farm on the terms accepted by the plaintiff. Yet the Appellate Court dismissed the plaintiff's claim with costs.

In other words, while "he who comes into equity must come with clean hands," if it is law, he may, in the alternative, keep his hands in his pockets. He need not show his hands, but, without affirming or denying, may leave the plaintiff, with the just cause, to play a lone and losing hand.

In the first volume of Blackstone's inimitable "Commentaries" he says:—

"The most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and spirit of it; or the cause which moved the legislator to enact it. For when this reason ceased, the law itself ought likewise to cease with it. An instance of this is given in a case put by Cicero, or whoever was the author of the treatise inscribed to Herennius. There was a law, that those who in a storm forsook the ship should forfeit all property therein; and that the ship and lading should belong to those who staid in it. In a dangerous tempest all the mariners forsook the ship, except only one sick passenger, who by reason of his disease was unable to get out and escape. By chance the ship came safe to port. The sick man kept possession, and claimed