

dered contemporaneously by the bank, which might represent the inception of a new transaction or negotiation of securities.

*Moss, Q. C.*, for defendants Oliver and Knowlton.

*W. N. Miller, Q. C.*, for plaintiffs.

BOYD, C.]

[April 1.

#### RE ZOOLOGICAL CO.

*Comp. v. ies—Subscription—Allotment.*

Appeal from ruling of Master in Ordinary.

When one C. signed the subscription book of a company incorporated under R.S.O. 1887, c. 157, under the following agreement: "We the undersigned do acknowledge ourselves to be subscribers to the capital stock of the company for the number of shares and to the amount set opposite our names, and we do hereby covenant, promise and agree, each with the other of us, \* \* \* to pay the amount of our said subscription and all calls thereon, when and as the same may be called up under the provisions of the Joint Stock Act or under any by-laws which may be passed,"

*Held*, following *re Queen City Company*, 10 O.R. 264, that this amounted to a complete and absolute engagement with the company, and with the other signatories which bound C., and the engagement was not conditional on the allotment of stock.

If the stock was not given to the signatories each could enforce the engagement specifically and needed to do nothing more to perfect the agreement.

*A. C. Galt*, for E. S. Cox.

*W. Creelman*, for liquidator.

#### Practice.

ROSE, J.]

[April 2.

#### MARITIME BANK v. STEWART.

*Bankruptcy and insolvency—English Bankruptcy Act, 1883—Proving claim under—Staying action in Ontario.*

This action was begun in March, 1887, to

recover \$220,000 from the defendants. The defendants having become subject to proceedings in bankruptcy, the plaintiffs presented their claim and lodged it with the assignee in bankruptcy in England, in September, 1887. The judge in bankruptcy in England made an order enjoining the plaintiffs from proceeding with this action in the High Court of Justice for Ontario; and subsequently an order was made in this action by the Master in Chambers staying the proceedings forever.

*Quare*, whether there was power under the English Bankruptcy Act, 1883, to grant the injunction referred to? But,

*Held*, that there was power in this Court to make the order, either under s. 10 of the English Act, or by reason of the equity of the case and the power of the Court to administer that equity, and the order of the Master in Chambers staying proceedings was affirmed.

" *Il v. Dominion of Canada Oil Refining Co.*, 37 U.C.R. 484; *Regina v. College of Physicians and Surgeons of Ontario*, 44 U.C.R. 564; *Ellis v. McHenry*, L.R. 6 C.P. 250, specially referred to.

*Gormully*, for plaintiffs.

*McCarthy, Q. C.*, for defendants.

MR. DALTON, Q. C.]

[April 8.

#### WALLBRIDGE v. TRUST & LOAN CO.

*Security for costs—Plaintiff, although suing for another, interested in result.*

Where a plaintiff in an action is not an actor therein, but is a mere passive instrument in the hands of the real plaintiff by whom the action is brought, security for costs will be ordered; but where the plaintiff, although he partly brings the action for the benefit of another, who has agreed to contribute to the expense thereof, is also himself largely interested in the result, he is to be considered as the real acting plaintiff and cannot be compelled to give security for costs.

*Delaney v. MacLellan*, ante p. 191, distinguished.

*Aylesworth*, for plaintiff.

*A. H. Marsh*, for defendants.