

## HIGH COURT OF JUSTICE.

Middleton, J.]

[Sept. 17.]

BOECKH V. GOWGANDA QUEEN MINES LIMITED.

*Res judicata—Dismissal of action where plaintiff relies upon grounds he unsuccessfully sought to set up in original action.*

A defendant who has failed to plead any defence open to him in an action cannot obtain any relief by any subsequent proceedings. His only remedy would be an application for indulgence in the original action. In this case such an application had been made but was dismissed.

*J. W. McCullough*, for plaintiff. *M. L. Gordon*, for defendants.

Boyd, C.]

[Sept. 19.]

CAMPBELL V. TAXICABS VERRALS LIMITED.

*Company—Legal existence but no organization—Authority of solicitors.*

Motion by plaintiff to set aside all proceedings entered into by defendant's solicitors and for an order directing the solicitors who defended the action to pay plaintiff's costs on the ground that the company was never organized and therefore could not authorize a defence.

*Held*, that a company existing under letters patent without any organization may defend an action brought against it. *In re Dunn* (1911), 1 K.B. 966, does not apply.

*J. MacGregor*, for plaintiff. *J. M. Godfrey*, for defendant.

Boyd, C.]

RE BAYNES CARRIAGE CO.

[Sept. 20.]

*Company—Winding-up Act, s. 2 (e), 13, 107 to 133, 134, 135, D.—Evidence of directors in support of petition.*

Motion to set aside a subpoena calling on the directors of a company to testify on an application for a winding-up order on the ground that their evidence could not be received under the Dominion Act because the procedure under the Con. Rules is not available under that Act.