

or £500,000. Under the column for pounds "500" was entered, and the remaining three cyphers were in the shillings and pence columns. By a business man the entry would have read—Five hundred pounds, no shillings and no pence. In the column for dollars appeared "5000," and the remaining cyphers were in the cents column. The stock book had been deposited with Mr. Collage, of Hamilton, for the purpose of obtaining subscribers. Mr. Collage had allowed it to go out of his possession, by delivering it to Mr. Parke, of Windsor; and as Mr. Parke would not give me the book in any other way, I obtained it by a writ of replevin. On obtaining possession of the book, I found in it the entry I have referred to. I knew Wallace. He was a man of no means—a resident of the United States, seeking employment here as an engineer. I made Mr. Buchanan aware of the entry of the stock in the book in the name of Wallace, on 6th August, 1856. Mr. Buchanan did not on that occasion express any opinion on the subject, but he evinced extreme anxiety to get possession of the book from me. Some of the present directors of the Niagara and Detroit Rivers Company were stockholders in the Amherstburg and St. Thomas Railway, and the plaintiff McClenaghan, shortly before the amalgamation of the latter company with the Woodstock and Lake Erie Railway company, also became a shareholder therein. I cannot tell the light in which the plaintiff regarded the Wallace stock; but the directors who signed the cheque considered that Wallace's subscription was fraudulent, and that the ten per cent. deposit upon it paid by Buchanan, was only paid conditionally, the condition being that if Mr. Buchanan failed within a given period in accomplishing his designs in England, in connection with the Great Western Railway, the money should be returned to him. Mr. Buchanan and his directors claimed to be the legally-constituted board, upon the faith of the £50,000 deposit; and their successors, up to the passing of the recent Act, stood upon the same foundation.

An affidavit has been made by Mr. Mercer, as follows:—

"I, John Mercer, of the town of Chatham, in the county of Kent, Esq., make oath and say: That on the 21st day of Nov., 1857, pursuant to appointment, I met Arthur Rankin, Esq., in company with several other persons, on the cars of the Great Western Railway Company at the said town of Chatham, and travelled with him and the said other persons (amongst whom were Charles Baby, Esq., Paul J. Salter, Esq., of Sandwich, and James Cuthbertson, Esq., of Windsor), on the said cars to London, in the county of Middlesex, where we met Isaac Buchanan, Esq., James Morton, Esq., and others, who had come on the cars of the said Great Western Railway from Toronto and Hamilton, who, as well as the said Mr. Rankin, and the said other persons

who travelled with him and me, went to London aforesaid for the purpose of attending a meeting of the directors of the Amherstburg and St. Thomas Railway Company, called to change the personnel of the board of the last-mentioned company, in pursuance of an agreement previously made between the said Mr. Rankin, Mr. Buchanan, and Mr. Morton; that the intended meeting of the directors took place at the City Hall, in London aforesaid, on the evening of the said day, which meeting was presided over by the said Isaac Buchanan, then the president of the said company, and at which meeting Mr. Buchanan and his board of directors severally resigned, and were replaced by myself and eight other persons, of whom I was elected president; that immediately after the formation of the said new board, and before Mr. Buchanan and his late co-directors or any of them had left the hotel, a resolution was passed by the said newly-elected board under the advice of the Hon. Attorney General West, conveyed to them by Robert A. Harrison, Esq., to the effect that the said company's cheque should be given to the said Isaac Buchanan for the repayment to him of the sum of £50,500 currency, being the deposit of ten per cent. previously paid by him into the Bank of Upper Canada, upon the subscription of William Wallace, John McLeod, Theodora Parke, and certain other small shareholders in the said company; and immediately after the passing of the said resolution, I, as president of the aforesaid company, signed a cheque for the aforesaid sum payable to the said Isaac Buchanan himself. The said Isaac Buchanan was present waiting to receive the said cheque, which as soon as signed, was duly delivered to him. And I further say that it was the opinion of myself and co-directors (as expressed by them) that the subscription by William Wallace in the Amherstburg stock-book of £500,000 of the capital stock of the said company had been fraudulently made, and that the payment of ten per cent. deposit upon the stock by the said Isaac Buchanan had been made conditionally and contrary to the spirit of the Act of Parliament incorporating the said company, and that in fact the said money paid under such condition belonging to the said Isaac Buchanan, and not to the company; and for these reasons I and the other directors willingly adopted the advice of the Attorney General, who recommended that it would under the circumstances be but just that Mr. Buchanan's money should be returned to him.

"Sworn before me, at the city of Toronto, on the 14th December, 1858, having been first read over to the deponent, John Mercer, whom I informed that he was liable to cross-examination as to its contents, and that he was at liberty to add to or vary the same.

"GEOFFRY HAWKINS,  
"Commissioner."