

the directors when selected. The judgment wiped out the right, and neither the provisional directors nor the directors had a right to deal further with or recognize those subscriptions. The bank should not have taken the assumed transfer to Lindsay, or made the subsequent transfer, and Sproat and Murray are not responsible for acts of the bank assuming to deal with shares that did not exist. The subscriptions never ripened into shares. The effect of the judgment was to find no binding subscriptions, and that the subscriptions were, as alleged in the endorsement of the writ, void. No authority is, or I think can be, cited holding that one who signs a subscription never can be relieved of his liability otherwise than under the formalities of the Bank Act. Fraud can be, and I think in this case was, relieved against to the extent of declaring in effect that there never was a binding subscription.

The names of James Murray, and of James Murray and John Murray, executors of John Sproat, deceased, should be struck off the list of contributories as submitted by the liquidator.

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SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

MARCH 13TH, 1914.

MULHOLLAND v. BARLOW.

6 O. W. N. 72.

*Trespass to Lands—Trifling Claim—Counterclaim—Fence—Right-of-Way—Injunction—Damages.*

FALCONBRIDGE, C.J.K.B., 25 O. W. R. 572; 5 O. W. N. 654, dismissed plaintiff's action for trespass to lands and gave judgment in favour of defendant on his counterclaim for an injunction and damages.

SUP. CT. ONT. (2nd App. Div.) varied the judgment below by striking out paragraphs 2, 3, and 4 thereof, and by declaring that neither party shall build a fence on the centre line north and south of lot 180 further north than a point 11 ft. 2 in. north-westerly from the corner of the plaintiff's house; and also (by consent) declaring that no part of the plaintiff's house is on the defendant's land, and directing that the plaintiff shall, within one month, re-erect and maintain the fence that formerly extended from the north-west corner of her house. In other respects appeal dismissed. No costs of appeal.

Appeal by the plaintiff from the judgment of HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B., 25 O. W. R. 572.