

which Article 13 was one. On the 14th February, 1871, this Article was abrogated and a new one substituted, materially differing from the original one. Only after that, in October, did plaintiff become a member of defendants' Company, and his contention is that he did become a member from seeing the statute, and knowing the original rules, but not knowing of the substituted one. We see from the evidence of plaintiff's witnesses that the formalities of Section 7 of the Consolidated Statutes, Cap. 69, were not observed for the purposes of the meeting of 14th February, 1871. That meeting was irregular, and the *règlement* made by it could not bind; at any rate could not bind non-assenting members. The plaintiff was not a member at the time, but claims not the less to have right to say that he was not bound by the new *règlement*, and is not. When he invested, he says he did not know of it, and thought he was acting under the Consolidated Statutes, and the rules of defendant's Company of the time before February, 1871. Upon what terms did the plaintiff invest? That is the question. The defendants have failed to prove his knowledge in October, 1871, or until quite lately, of the substituted *règlement*, passed at the irregular meeting. The most they do at the last is to argue from the improbability of Prevost investing large sums of money while not knowing of the new *règlement*. Under all the circumstances, though the case is not free from difficulty, Prevost's case is the strongest, and his action must be maintained, not for all the money he asks; but for it, less the share of *dépenses* that defendants say they may claim against him, even under the original *règlement* of the time before February, 1871. Costs against defendants.

Prevost & Préfontaine for plaintiff.

M. E. Charpentier for defendants.

[In Chambers.]

MONTREAL, December 1, 1879.

McCLANAGHAN v. THE ST. ANN'S MUTUAL BUILDING SOCIETY OF MONTREAL.

Security for investments made by administrators—
Constitutionality of Act for liquidation of affairs
of Building Societies, 42 Vict. (Can.) Chap. 48.

This was a petition for a writ of injunction. The petitioner set forth that he was a member

of the Building Society, incorporated under the Consolidated Statutes of Lower Canada, chap. 69, and under rule 8 of the Society he was proprietor of an appropriation of \$2,000, and had conformed to the requirements of rules 9 and 10, which authorize the proprietor of an appropriation to furnish security on real estate of sufficient value to obtain the amount of the appropriation. That the security had been judged sufficient according to the rules, but the Society had refused to deliver the amount. Moreover, the Society had gone into liquidation, under the pretended authority of the Federal Act, 42 Victoria, chapter 48 (15th May, 1879). That a dividend was now (26th August, 1879), to be distributed to the shareholders, portion of which comes out of the appropriation in question; that the act in question by the Federal Legislature was unconstitutional, and the liquidation at any rate could not take place in prejudice of the rights of petitioner. An injunction was, therefore, asked for against the Society, liquidators and Secretary-Treasurer, prohibiting them from distributing the funds, and adjudging that they had no power to proceed to said liquidation, and prohibiting said corporation from doing so.

The defendants pleaded that one W. E. Doran was a member of the Society, and on 22nd June, 1878, was allotted by ballot an appropriation of \$2,000, which he transferred to petitioner on the 22nd April, 1879, who then became a member of the Society, bound to conform to its rules. That the subject of liquidation had been for a considerable time, before 22nd April, 1879, before the shareholders, and it was a matter of public notoriety that they would go into liquidation, and the said federal Act was so passed to enable building societies to do so. That the property offered as security by petitioner was not sufficient for the purpose, and the Directors in the exercise of the discretion conferred upon them by the by-laws declined to make the advance in question, and by letter of 9th May informed petitioner that his application could not be entertained without additional security; that at the annual general meeting, 14th May, a resolution was passed instructing the Directors to loan no further amounts pending a settlement of the Society's affairs, to wit, by liquidation under said Act; that petitioner did