missed with costs for non-compliance with an order for security for costs.

In June, 1916, the plaintiff began an action in the Supreme Court of Ontario for the same causes of action; it was also dismissed with costs, for the same default.

In February, 1917, the present action was brought for the same causes of action as the Quebec action and the Ontario action of 1916. The order staying proceedings was made in April, 1917.

A dismissal of an action for want of complying with an order for security for costs is not a bar to another action for the same cause: Seton on Judgments, 7th ed., vol. 1, pp. 134, 136; In re Orrell Colliery and Fire-Brick Co. (1879), 12 Ch. D. 681, 28 W.R. 145; In re Riddell (1888), 20 Q.B.D. 512, 518; but the Court has inherent power to stay the second action until the costs of the former action are paid.

In this action the plaintiff charged fraud on the part of the manager of the defendants' bank, and claimed several specific sums, $200,000 damages for fraud, an account, and general relief.

All the claims made in this action, save one, were new, at least in form, and were not specifically disposed of by the judgment entered in 1897—there was no res adjudicata apparent concerning them. The defendants could, if so advised, plead res adjudicata as to those claims also. As to the relief denied in the former action, it was open to the plaintiff to move to impeach the judgment, on the ground of fraud subsequently discovered (Rule 523), but he was not bound to do so—he might proceed by action: Leeming v. Armitage (1899), 18 P.R. 486; Wyatt v. Palmer, [1899] 2 Q.B. 106; Cole v. Langford, [1898] 2 Q.B. 36.

The plaintiff had pursued the proper course; it was open to the defendants, if so advised, to plead res adjudicata; and the plaintiff might then amend by setting up fraud and claiming to have the former judgment set aside pro tanto.

The appeal should be allowed and the plaintiff permitted to proceed, on paying the costs of the former actions—the Quebec action and the Ontario action of 1916; and the plaintiff should be allowed to set off the costs of this appeal and of the application in the Weekly Court.

The plaintiff may amend as advised. Nothing is now finally decided as to what was decided in the judgment of 1897.

MAGEE, J.A., and ROSE, J., agreed with RIDDELL, J.

MEREDITH, C.J.C.P., dissented, for reasons stated in writing.

Appeal allowed; MEREDITH, C.J.C.P., *dissenting.*