the appellant did not know the extent or responsibilities which he assumed, and that the amount set down in the subscription list was entered by the agent without appellant's knowledge or consent. At the end of the year 1875 the Company declared a dividend of 10 per cent. on the paid-up capital, and appellant received a cheque for $50, being a dividend of 10 per cent. on the amount paid "*montant verse.*" In the following year the Company suffered heavy losses, and appellant again endeavoured to be relieved from further liability without success, and calls having been made, he refused to pay.

Held, That the defendant immediately after setting his name to the subscription book, communicated to the respondents the true state of the case, and before any action had been taken by the Company upon the faith of the appellant's signature having been obtained, there was no completed contract entered into between them for fifty shares, and that appellant was not estopped by anything which took place afterwards from showing that he was never in fact holder of fifty shares in the capital stock of the Company.

Languedoc, for appellant.

Bedard, for respondents.

MANITOBA APPEALS.

WOOD (respondent) v. SCHULTZ (appellant).

Vendor and Purchaser. — Fraud — Supreme Court Amendment Act, 1879, *Sec.* 6.

The plaintiff charged fraud against the defendant in respect of a sale of a lot of land to him in Winnipeg. The defendant, being unable to be present at the hearing, applied for a postponement on the grounds that he was a material witness on his own behalf, and that it was not safe for him in his state of health to travel from Ottawa to Winnipeg.

Mr Justice Dubuc refused the postponement, and made a decree in favour of the plaintiff, directing an account to be taken. The Chief Justice of the Supreme Court, under sec. 6 of the Supreme Court Amendment Act of 1879, allowed an appeal direct to the Supreme Court, it being known that there were then only two judges on the bench in Manitoba, the plaintiff and Mr. Justice Dubuc, from whose decree the appeal was sought.

Held (*per* Chief Justice) that the cause was forced to a hearing with unjustifiable haste, and was conducted with such irregularity as would justify this Court in holding that there was a mis-trial, and in sending it back to the Court below. But he considered this unnecessary, as he was of opinion that the plaintiff had failed to establish his case, and that the appeal should be allowed with costs, and the bill dismissed with costs. STRONG, J., was of the same opinion as to the manner in which the case should be dealt with. FOURNIER and HENRY, J. J., were of opinion that the appellant should have been granted a postponement of the hearing, and that the appeal should be allowed with costs, and the appeal remitted to the position it occupied before the hearing GWYNNE, J., was of the opinion that the appeal should be allowed with costs, and the bill dismissed with costs. The appeal was allowed with costs, and the bill dismissed with costs.

Jas. Bethune, Q.C., for appellant.

J. A. Boyd, Q.C., for respondent.

CHANCERY.

Proudfoot, J.] [Nov. 16.

RE DONOVAN—WILSON v. BEATTY.

Administrator ad litem—Suits improvidently instituted—Solicitor of administrator ad litem—Costs paid to solicitor—Order to refund costs improperly paid—Res judicata—Sureties of administrator ad litem.

An administrator *ad litem* had allowed suits to be brought in his name without the sanction of the Court, and which both he and his solicitor had been notified was necessary, and a sum of $2,738.37 for costs in respect of such suits had been paid out of the funds to the solicitor, and which, it was alleged, had been so paid improvidently ; the Court in a suit by the executors' against the administrator directed a taxation of the solicitor's bill, when a sum of $2,012.81 was disallowed, and thereupon the sureties for the administrator, who was unable