5 Cowen (N.Y.) 162; *Patterson* v. *Cunningham*, 12 Me. 506; *Goodrich* v. *Nichols*, 2 Root (Conn.) 489; *Rice* v. *Peet*, 15 Johns (N.Y.) 503; *Howard* v. *Brower*, 37 Ohio St. 402. But see *Couch* v. *Meeker*, 2 Conn. 302.)''

The law is similarly stated by other text-writers; for instance, Sutherland on Damages, 3rd ed., page 711, s. 280, expresses it as follows:—''Damages can be liquidated only on a valid contract. A valid contract must exist on which damages could be recovered. If void for not being in writing (*Newman* v. *Perrill*, 73 Ind. 153; *Scott* v. *Bush*, 26 Mich. 418-12 Am. Rep. 311), or if impeached for fraud, the stipulation for damages will share the same fate as the contract.''

It will be observed that the point decided by the line of cases headed by *Goodrich* v. *Nichols* (sup.), is the precise point dealt with in the present case.

IMPORTANCE OF DECISION.

On this point the case under discussion is a practical reversal of the line of cases referred to, in that respect agreeing with the case of *Couch* v. *Meeker*, above mentioned. Indeed Mr. Justice Riddell in his judgment, expressly impugns the statement of the law as above set forth in the extract from Browne on the Statute of Frauds, and in the line of cases cited.

It is largely for this reason that the judgment seems to us to possess such special significance.

Whether the present case will mark the parting of the ways as between the law of Ontario, and that of England and the United States on the point in question, it may be as yet too early to say. Two things, however, seem fairly assured: First, that the case has effected a change in the law of Ontario on the point in question and, secondly, that the decision seems to countenance doctrine which is much at variance with what has heretofore been generally considered to be the law upon the subject in England and the United States.

Heretofore we believe the extract from Browne above quoted has been taken to be a correct exposition of the generally accepted law on the subject in both the last mentioned countries.