

The two adult children of the testator, viz., Rena Stewart and James Downing Stewart, who were not represented on the motion, have the same interest in the estate as the infants who were represented. The executors on the motion asked that an order should be made appointing someone to represent them for the purpose of the motion. I do not think this is necessary. Under Rules 939 and 940 they are sufficiently represented by the counsel for the infants, whose interests are similar.

It is a proper case, I think in which to make costs of all parties payable out of the fund in question.

HON. MR. JUSTICE LATCHFORD.

NOVEMBER 18TH, 1912.

RE GLOY ADHESIVES, LTD.

4 O. W. N. 350.

Company—Winding-up—Report of Master—Appeal and Cross-Appeal—Purchase of Shareholder's Shares—Gross Fraud—Proceeds Partly Paid to Company—Right to Recover—Shareholder not to Benefit by Fraud.

Appeal by one Hughes, and cross-appeal by liquidator, from the report of the Master-in-Ordinary, dismissing Hughes' claim to rank on the assets of a company in liquidation as a creditor to the extent of \$1,200, and the liquidator's claim to recover \$800 from Hughes. One Vanderburg, the promoter of the company, had induced one Crosby to purchase from Hughes \$2,000 worth of stock by fraudulent means, and of this \$2,000, \$1,200 had been paid to the company and \$800 given to Hughes.

LATCHFORD, J., *held*, that Hughes could not profit by the fraud of Vanderburg, and could not recover the \$1,200 received by the company, but that the company had no right to recover the \$800 from Hughes as it was money that never rightfully belonged to it.

Lloyd v. Grace (1912), 28 T. L. R. 547, referred to.

Appeal dismissed with costs, cross-appeal dismissed without costs.

Appeal on behalf of T. B. Hughes from the report of the Master in Ordinary declaring Hughes not to be entitled to \$1,200 paid by one Crosby for shares held by Hughes. He claimed to be entitled to rank on the assets of the company to the extent of the \$1,200.

On behalf of the liquidator, the report of the Master was sought to be varied in so far as it held that the liquidator is not entitled to recover from Hughes a sum of \$800 paid to Hughes by the company.

A. C. MacMaster, for the motion.

W. R. Wadsworth, contra, and for cross-appeal.