in any particular manner by their charter, may adopt all reasonable modes in the execution of their business which a natural person may adopt in the exercise of similar powers"; but, relying on the provisions of the charter above quoted, it was held that plaintiff could not recover on a naked verbal agreement. The same case seems somehow to have got into the Federal Court (*Henning* v. *United States Ins. Co.*, 2 Dill. 26), and a ruling entirely different was there made, the Federal Court holding that when the charter was granted to the insurance company, the General Statutes of Missouri then in force declared that all charters thereafter granted should, unless otherwise expressed, be subject to the provisions of the general law respecting corporations, and sec. 8, p. 232, of the Revised Code of 1845 declares that "*parol contracts* may be binding on aggregate corporations, if made by an agent duly authorized by a corporate vote, or under the general regulations of the corporation, and *contracts may be implied* on the part of such corporations from their corporate acts, or those of an agent whose powers are of a general character." The Federal Court therefore held that "the defendant was not released from, but by implication subjected to, this provision of the general law."

The Supreme Court now hold, in the case first above mentioned, that the ruling of the Federal Court was proper, and that the opinion of the Supreme Court in the case of *Henning* v. *United States Ins. Co.*, *supra*, was mainly *obiter*, and that in deciding that case, sec. 8, p. 232, of the Code of 1845, above referred to, had been overlooked, although it has been on the statute book for over 35 years. The Court also draws a distinction between that case and the case now decided, on the ground that the former case was a suit *at law* on an alleged oral and completed agreement, while the latter case was a proceeding *in equity* to compel that to be done which already, upon sufficient consideration, had been agreed should be done; and in that view it was unnecessary for the Court to overrule its decision in the previous case. Sherwood, C. J., delivered the opinion of the Court, in very clear and forcible language. Hugh and Henry, JJ., dissented, so that the conclusion reached was only by a majority of one.—*Southern Law Review.*

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, Sept. 29, 1881.

DORION, C. J., RAMSAY, TESSIER, CROSS, BABY, JJ.

WINDSOR HOTEL CO. (plffs. below), Appellants, and LEWIS et al. (defts. below), Respondents.

Company—Defects in organization pleaded in answer to action for calls.

The appeal was from a judgment of the Superior Court, Montreal, (Rainville, J.) April 30, 1879, dismissing the appellants' action.

RAMSAY, J. The action in this case is for calls on the shares of a joint stock company held by respondents.

They resist the demand on the following grounds: 1st. That the directors represented that the building would only cost $500,000. 2nd. That the subscription of defendants should not be considered, and that the work should not be commenced, until $400,000 had been subscribed. 3rd. That they had been induced to subscribe for these shares on the false representation, that certain parties were subscribers who were not really subscribers for the amounts opposite their names. 4th. That the first meeting to elect directors was only to be held when $400,000 had been subscribed, and when $40,000 had been paid into one of the chartered banks in Montreal; that the meeting was called on the 9th November, 1875, when $400,000 were not subscribed, and when $40,000 had not been paid in. 5th. That the calls were made by persons not authorized to make such calls. The prayer is that the subscription of defendants may be declared not binding on them; that the calls be declared to have been illegally made, and that the action be dismissed.

There is no undertaking in the prospectus that the building will only cost $500,000. It is only given as the estimated cost of the building. It appears that one of the defendants assisted in the verification of the fact that the $400,000 were subscribed before the first meeting. In addition to this they have both paid calls. This seems at all events to throw the *onus* of proof on them that the $400,000 were not paid. On the contrary their evidence goes to show that there were $400,000 subscribed. We need not then examine what the legal consequences would be if the fact had been established that $400,000 had not