refused and the resolution was passed. In May, 1907, Mrs. Jones's solicitors inquired of the company whether the shares had been forfeited, and offering to pay up the arrears, but were informed that the shares had been forfeited. She then brought action.

Held, on appeal, affirming the judgment of CLEMENT, J., at the trial (Hunter, C.J., dissenting) that the plaintiff, Clara B. Jones, had elected to abandon the undertaking by acquiescence in the forfeiture at a time when the company's prospects were doubtful, and such abandonment could not be recalled when it was found that the company was prosperous.

Martin, K.C. and Craig, for plaintiffs. Davis, K.C. and Pugh,

for the defendant company.

## SUPREME COURT.

Full Court.]

REX v. GARVIN.

[June 10.

Constitutional law—Dominion and Provincial legislation—Sale and quality of milk—Adulteration, R.S.C. c. 133, ss. 23, 26—R.S.B.C. 1897, c. 91.

Sec. 20 of the Provincial Board of Health Regulations governing the sale of milk, not being clear as to whether the effence aimed at is the possession of milk below a certain standard, intended for sale, or whether such intention is to be implemented by actual sale, the court should not, following Barton v. Muir (1874), L.R. 6 P.C. 139, at p. 144, be called upon to construe it, it being dangerous in the construction of a statute to proceed upon conjecture.

Maclean, K.C., (D.A.-G.) for the Crown, appellant. Craig and Hay, for defendant, respondent.

Full Court.]

[June 10.

DISCONDI v. MARYLAND CASUALTY Co.

Workmen's Compensation Act, 1902—Order directing insurers to pay amount into court before award—Liability to third party.

There must be an admission of liability on the part of the insurer, or a finding of liability by a competent tribunal, before the provisions of sec. 6 of the Workmen's Compensation Act, 1902, as to payment into court, can be invoked.

L. G. McPhillips, K.C., for appellant company. S. S. Taylor,

K.C., for respondent.