

DECEMBER 31ST, 1909.

RE LAKE ONTARIO NAVIGATION CO.

DAVIS'S CASE.

HUTCHINSON'S CASE.

*Company—Winding-up — Contributory — Shares — Allotment—
Right to Repudiate—Voting on Shares — Director—Misfeasance.*

Appeals by Davis and Hutchinson from the order of TEETZEL, J., 18 O. L. R. 354.

The appeals were heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, J.J.A.

F. J. Dunbar, for Davis.

I. F. Hellmuth, K.C., for Hutchinson.

M. C. Cameron, for the liquidator.

J. H. Moss, K.C., for shareholders.

MEREDITH, J.A.:—The appellant Davis applied, in writing, for 130 shares at the price of \$1,300. The whole testimony—to which credit has been given and which is not now questioned—makes it very plain that the full price of that which this appellant was to get was \$1,300.

Instead of allotting to him any such shares, the directors of the company allotted 130 shares, the price of which was \$13,000. The moment he became aware of that fact, he stopped the cheque he had given for the \$1,300—the full amount of the purchase money; and refused to have anything more to do with the matter.

In the meantime he had given a proxy to vote upon the shares which he had applied for; and that proxy was acted upon; but there was no sort of acceptance of the stock actually allotted, nor any sort of intention to accept it; instead, there was the promptest rejection of the shares which were allotted.

In these circumstances, it would be extraordinary if the appellant were in law liable for the \$13,000—liable to pay for something he never applied for, never bought, nor ever accepted.

It is not a case of buying the ordinary stock of the company under some mistake of law, or of fact, on the part of the purchaser, as to the legal effect of becoming such a purchaser.