

by the endorsement, among other things, for a declaration that their subscriptions were void, for rescission, and for an injunction restraining the defendants from proceeding thereon, and alleging that such subscriptions were obtained by fraud and misrepresentation.

The liquidator now asks to retain James Murray on the list for double liability under two subscriptions, one for 25 and one for 10 shares of \$100 each, and James Murray and John Murray, executors of John Sproat, for double liability for a subscription for 100 shares of like amount each, obtained from them by one W. J. Lindsay, an agent of the bank.

On the return of a motion by the plaintiffs for the injunction prayed, on the 27th October 1906, an affidavit of Lindsay was filed, in which he says that on the previous day, he had interviewed all the eleven plaintiffs, including Sproat and James Murray, with the concurrence of the manager of the bank and its solicitor; that he had at that interview paid back to each all moneys paid for stock, had given an undertaking to return notes for unpaid balances, and had obtained from each an assignment of his stock to him, Lindsay. He had in fact paid James Murray \$300—all the latter had paid. Sproat had paid nothing. The assignments by James Murray and John Sproat so obtained are produced by the liquidator, each having annexed a writing intituled in the Court and cause, duly signed and witnessed, in which each states that he has "now no interest in this litigation, and desires that this action be not proceeded with."

James Murray was examined before me, and detailed the grounds of fraud and misrepresentation alleged in his case, and his repudiation of his first subscription alleged to be for 25 shares, within a day or two days; he said that that subscription paper was then, on the spot, returned to him, when he destroyed it in Lindsay's presence, as he distinctly recollects, and signed one for 10 shares only.

W. R. Travers made an affidavit, filed on the said motion, in which he says that he produces the Murray subscription for 25 shares marked as exhibit N, and the Sproat subscription as exhibit D. The liquidator now produces such subscriptions. Neither is so marked. He further says (agreeing with James Murray's evidence) that the second Murray subscription, for 10 shares, was substituted