

These reasons, these grounds, it will be remembered he had not assigned, and, as during the six years which had intervened between the two dismissals, he had ample time for reflection, he might be naturally presumed to have acquiesced in the decision of the Court of Appeal. At least he might have been content to deal with the question which was submitted to the Court for decision, and assuredly the demurrer which he had maintained, and the Court of Appeal had dismissed, was not revived, nor was any fresh demurrer fyled. It appeared from his language, however, that he had all along intended at *that last stage* to dismiss the action. This intention *per se* might not be criminal. It was its concealment that constituted the criminality now imputed to Judge Stuart, for that intention, known *only to himself*, was a ground of recusation, and he was bound by every consideration of honor, of candor, and justice, to have made a declaration of it.

To form a just estimate of the conduct of Judge Stuart, it may be necessary to pause for a moment. He is certainly a gentleman of more than average capacity and information, but he cannot, or at least ought not to arrogate to himself any higher or greater rights, powers, or privileges than the other Judges of his Court possess.

If he can refuse to carry out a judgment of the Court of Appeal because he considers that he is wiser than the five members of that Court, so can every other Judge. Now, there are five Judges of the Superior Court at Montreal, five others (exclusive of himself) reside in this city, and there are probably four or five others in different parts of the Province. Every one of those Judges is upon a footing of equality with Judge Stuart; but if every one chose contemptuously to oppose the Court of Appeal, this last named tribunal might be advantageously dispensed with. The evils inseparable from this condition of things would, however, be incalculable, nor