

the purpose of registration, it was sufficient to recite in the deed to the defendant a sale within five years, and the subsequent ending of the contract to sell for non-payment by the former purchaser.

Arnoldi, for the plaintiff.

Hewson, for the defendant.

Boyd, C.]

[Nov. 23.]

THE LONDON AND CANADIAN LOAN AND
AGENCY CO. v. GRAHAM.

*Title—When shown—Demand of abstract—
Costs.*

On the hearing on further directions of this case (reported above), it was

Held, that showing title is the manifestation on the abstract of all matters essential to a good title, and that as defendant had demanded no abstract before action, he could not complain that title was first shown thereafter, and he was ordered to pay the costs thereof.

Bridges v. Longman, 24 Beav. 27, cited and followed.

Arnoldi, for the plaintiffs.

Hewson, for the defendants.

Ferguson, J.]

[Nov. 13.]

RE MACDONALD AND THE NOXON BROTHERS
MANUFACTURING CO. (Limited), AND RE-
VISED STATUTES OF ONTARIO (1887) C. 183.

*Winding-up proceedings—"Contributory"—
R. S. O. (1887) c. 183, s. 5.*

A paid-up shareholder in a company is such a "contributory" within the meaning of section 5 of R. S. O. (1887), c. 183, as is entitled to initiate winding-up proceedings.

Hayles, for the Co.

W. Nesbitt, for the petitioning shareholder.

Rose, J.]

[Nov. 21.]

MCDONALD v. MCDUGALL.

*Vendors' and Purchasers' Act—R. S. O. (1887),
c. 112, s. 1—Memorial of will over twenty
years old—Contents—Evidence—Life estate.*

In an action for possession of land, the plaintiff claimed under a deed from John Mc-

D., dated March 27, 1872. John McD. had been in possession for many years (more than twenty), and died Sept. 27, 1881. The defendant claimed under a deed from Jas. McD., son of John McD., who claimed title under his grandfather's will, and offered in evidence a memorial of the will, dated Dec. 10, 1832, and registered the following day, containing the following statement: "He did also bequeath and give to Jas. McD., his grandson, the (describing the land), so as not to deprive his father during his lifetime."

Held, following *Gough v. McBride*, 10 C. P. 166, that the memorial could be received as evidence under R. S. O. (1887), c. 112, s. 1, and was good evidence of the devise, and that the plaintiff by his conveyance only obtained a life estate, which ended when John McD. died, and he was not entitled to possession.

D. B. McLennan, Q.C., and *J. W. Liddell*, for the plaintiff.

James Leitch and *R. A. Pringle*, for the defendant.

Boyd, C.]

[Nov. 22.]

CHRISTIE v. HOWARTH *et al.*

*Unpaid stock—Liability of shareholder for—
Return of nulla bona against the company
before suit against shareholder—R. S. C.
c. 119, s. 55.*

A shareholder in a company is not liable to an action for unpaid stock by any creditor of the company until an execution at the suit of such creditor has been returned unsatisfied in whole or in part. Until the return of *nulla bona* in whole or in part, there is no right of action.

Held, also, that notwithstanding a judge's order for the issue of the *scire facias* was granted (*ex parte*), it could not avail against the express language of the Act R. S. C. c. 119, s. 55.

The return of *nulla bona* is that act which fixes the shareholder's liability to be sued, and without that essential ingredient there is no right to resort to the court.

Delamere and *E. T. English*, for the plaintiff.

Dr. Snelling, for the defendant Howarth.

J. M. Clarke, for the defendant Mathers.