

SECOND DIVISIONAL COURT.

DECEMBER 31ST, 1915.

\*RE GRAMM MOTOR TRUCK CO. OF CANADA AND  
BENNETT.

*Company—Shareholder—Summary Application for Removal of  
Name from Register—Companies Act, R.S.O. 1914 ch. 178,  
secs. 118, 119.*

Appeal by one Galusha from an order of LATCHFORD, J., dismissing the appellant's motion for an order removing from the register of shareholders of the Gramm Motor Truck Company of Canada the name of William A. Bennett as the holder of 199 shares.

The appeal was heard by FALCONBRIDGE, C.J.K.B., HODGINS, J.A., RIDDELL and KELLY, JJ.

A. C. Heighington, for the appellant.

H. E. Rose, K.C., for Bennett, respondent.

RIDDELL, J., read a judgment, in which FALCONBRIDGE, C.J. K.B., concurred, in which it was said that the appellant's application was made under secs. 118 and 119 of the Companies Act, R.S.O. 1914 ch. 178. The result of the evidence was, as the Judge below correctly shewed, that Bennett was obligated to pay at least par for the shares, and there could be no objection to him on that account. That he had not paid for the shares was no reason for saying that he was not a shareholder. It may be that the company can sue or can be compelled to sue for the purchase-price—but that is not the present proceeding.

The appeal should be dismissed with costs, but without prejudice to any action the appellant may bring for a declaration that Bennett is not a shareholder—all the facts may not be before the Court, and many of the allegations are contentious. The sections of the statute referred to are not to be invoked except in a reasonably clear case.

HODGINS, J.A., read a judgment in which he stated the facts at some length, and referred to *Morrisburgh and Ottawa Electric R.W. Co. v. O'Connor* (1915), 34 O.L.R. 161; *In re Railway Timetables Publishing Co.* (1889), 42 Ch.D. 98; *Re Wiarton Beet Sugar Co., Jarvis's Case* (1905), 5 O.W.R. 542; *Re Modern House Manufacturing Co.* (1913), 29 O.L.R. 266; *Cam-*