

"until it is invoked, to make a written declaration of it to be  
"fyled in the record."

Most laymen who read the foregoing lines will necessarily conclude that (assuming that Judge Stuart was bound to conform to the law) he was guilty of a lamentable suppression of fact, for he did not make any declaration of the *ground* of recusation to which he knew himself to be liable. Should any individual entertain any doubt, let him ask himself what it was that Judge Stuart was bound to declare, and he will be compelled to answer, any *ground* of recusation of which he might be aware.

To make this perfectly intelligible, it is necessary to take into account an event hereinbefore mentioned which had occurred since his dismissal of my action on the 5th of October, 1864, and before he made the above-written declaration. That event took place on the 20th June, 1865, in the Court of Queen's Bench, Appeal side, which *Court*, on that day declaring that in Judge Stuart's judgment of the 5th of October preceding there was error, reversed it, and declared that the Plaintiff *had* a right of action.

Judge Stuart, it is true, had, on the 5th October, 1864, held that the Plaintiff had *no right* of action. But, as in June following, the Court of Appeal, the Supreme Court of this Province, reversing that judgment, had determined that the Plaintiff had a right of action, and as Judge Stuart, a member of an inferior Court, is bound to defer to the Supreme Court, it was to be expected, that although he might not be convinced, nevertheless, that in the public interest, yielding to the authority and power of the Supreme Court, he would carry out its decision.

It was, however, precisely that which Judge Stuart would not do. He was of his own opinion still; he considered that the Court of Appeal had made the mistake which it imputed to him; and, adhering to his original view of the case, he resolved to dismiss the action.