

Held, that there was no reason why the directors should not be examined as witnesses, when there was no imputation of *maia fides*. The policy of our methods is to facilitate and simplify proceedings. English cases in other conditions cannot control what is the manifest intention of our legislature.

H. A. Burbidge, for the company and the directors. *Grayson Smith*, for the petitioners.

Riddell, Middleton, Lennox, JJ.]

[Sept. 30.

WILSON V. SHAVER.

Sale of goods—Warranty—Meaning of "due to calve."

The words "due to calve" on a day named in reference to a cow described in a catalogue furnished to intending purchasers at an auction of cattle is not a warranty that the cow would calve on the day named.

Laidlaw, K.C., for plaintiff. *Shaver*, for defendant.

Province of Manitoba.

KING'S BENCH.

Mathers, C.J.]

WATTS V. TOLMAN.

[Oct. 2.

Common law remedy—Effect of statute also giving right of action.

When there is a remedy at the common law that right of action is not abrogated or interfered with by the fact that a statute which deals with the subject matter of the action and gives certain remedies does not expressly provide for or retain the common law right of action.

And therefore, an action lies by a borrower for the excess of interest exacted by a lender without reference to R.S.M. 1902, c. 322, s. 7, which provides a remedy where a suit, action, or other proceeding concerning a loan of money has been brought by the money-lender, but does not provide for any action at the suit of the borrower.

J. F. Davidson, for the plaintiff. *H. F. Tench*, for the defendant.