

Full Court.]

[12 D.L.R. 556.]

Box v. Bird's Hill Sand Co.

1. *Assignment for creditors—Unscheduled security—Proof of claim in assignment proceedings—Loss of security.*

A company that proves a claim against an estate assigned for the benefit of creditors does not lose the benefit of security it holds because it was not valued in the assignment proceedings.

Box v. Bird's Hill Sand Co., 8 D.L.R. 768, affirmed.

2. *Estoppel—By silence—Failure of company to claim lien on shares—Effect of purchase acquiring notice before passing of legal title.*

A company is not estopped from claiming a lien on shares of its stock for an indebtedness from the holder to the company, as against a purchaser from the latter, on the ground that the representative of the company consented to the sale without claiming its lien, of which the purchaser did not have notice at the time of sale, but of which he was informed before receiving an assignment of the stock certificate, and paying over the purchase money.

Box v. Bird's Hill Sand Co., 8 D.L.R. 768, affirmed.

3. *Corporations and companies—By-law creating lien on shares for debt due company—Power to make.*

Power to adopt a by-law creating a lien in favour of a company upon the shares of a stockholder in respect to his indebtedness to it is conferred by the Joint Stock Companies Act, R.S.M. 1902, ch. 30.

Montgomery v. Mitchell, 18 Man. L.R. 37, followed.

4. *Corporations and companies—Lien on shares for holder's debt to company—Purchaser without notice—Duty to inquire.*

A by-law of a company creating a lien in its favour on shares of a stockholder in respect to his indebtedness to it, is not binding on a purchaser of shares for value without notice of such by-law; nor need the purchaser make inquiry as to its existence. (Dictum per Cameron, J.)

5. *Corporations and companies—Lien on shares for holder's debt to company—Purchaser with notice.*

The purchaser of company shares takes them subject to a lien of the company for an indebtedness due it from the seller, where the purchaser had notice of the lien before he acquired the legal title to the shares. (Dictum per Cameron, J.)

Symington, for plaintiff. *Dennistoun*, K.C., for defendant.