

party to the bond, and there was no communication in reference to it between the appellants and the respondent. It may be suspected, though I do not think it is proved, that Herbert S. Duncombe suggested to R. L. Duncombe that he should procure the respondent to take Herbert S. Duncombe's place as surety to the appellants. That the latter was desirous of being relieved of his obligation on the bond is shewn, but it is not shewn that it was because of any apprehension on his part as to the condition of R. L. Duncombe's account with the appellants, but, even if it were, I fail to see how the appellants can be affected by anything done by Herbert S. Duncombe to serve his own purposes, and when not acting for the appellants or in their interest; nor do I understand on what principle the fact that he was a vice-president of the company, and its solicitor, would warrant the Court in imputing notice to the appellants of the motives actuating him in endeavouring to get himself replaced as surety by the respondent.

The circumstance that when the payment was being made to the agent for the stock of the company owned by him, his indebtedness to the company was not deducted, is relied on by my brother Britton as indicative of some fraudulent intention in regard to the respondent. Again, it seems to me the answer to that is that the stock transaction was not one between the appellants and R. L. Duncombe, but between the latter and Herbert S. Duncombe, and there is no evidence—whatever one might be inclined to suspect—that the appellants, or, for that matter, that Herbert S. Duncombe, had any idea that the account of R. L. Duncombe was not in a satisfactory condition or that the advances made to him would not be repaid in due course, or that, knowing this, the respondent was substituted as surety for Herbert S. Duncombe in order that he might escape from the liability he had incurred as surety.

In my opinion, there was no duty resting on the appellants to communicate to the respondent the fact that Herbert S. Duncombe had been the surety for R. L. Duncombe, and that the respondent was taking his place and Herbert S. Duncombe was being relieved from his liability, or that the appointment of R. L. Duncombe as agent had originally been made before the appointment of 29th January, 1906, or that there was a current account between the agent and the appellants in which he was a debtor to the appellants for advances