

An appeal by the defendants from the report of the Master at Welland, to whom, by the judgment of LATCHFORD, J., it was referred to ascertain the state of accounts between the plaintiffs and the defendant B. A. Cook, and between the plaintiffs and the firm of Langley & Cook or the agent or agents of that firm.

F. W. Griffiths, for the defendants.

D. L. McCarthy, K.C., for the plaintiffs.

MIDDLETON, J.:—The pleadings are not before me; but from what was said, I infer that the action is one to set aside certain conveyances; and the reference is for the purpose of ascertaining whether the plaintiffs were creditors, and, if so, the amount of the indebtedness to them. The judgment provides that the trial shall stand adjourned until after the Master shall have made his report.

Pursuant to this judgment, the parties went before the Master, and the plaintiffs brought in accounts based upon a number of different transactions or contracts, in pursuance of which they had supplied the firm of Langley & Cook with asphalt block and other materials, and giving credit for various sums of money received on account. These accounts were verified by the affidavit of one Carson, the bookkeeper in charge of the plaintiffs' accounts during the period in question. Mr. Carson was not cross-examined upon this affidavit, and no surcharge or falsification was filed; but a document called "requisitions" appears to have been lodged in the Master's office. This document states shortly the defendants' contention with respect to the different accounts. With reference to one particular section of the account—that called "St. Boniface Job No. 2"—the statement is made that the plaintiffs themselves took over and completed this contract, and must give a complete account of all moneys received and paid out in connection therewith.

Upon return of an appointment to hear and determine, Mr. Fleming, the secretary-treasurer of the company, was called, and it was made to appear that a judgment had been recovered against Langley & Cook for some \$4,000; and it was stated that this covered only a portion of the indebtedness, which, as shewn by the accounts, amounted to upwards of \$16,000. Counsel for the defendants then cross-examined Mr. Fleming at length as to different items in the account; and, when the St. Boniface transaction was reached, it appeared that an assignment had