

executed, the Port Arthur company went actively into business, incurred large liabilities, and in a short time became insolvent. Until after the liquidation had been begun, it was assumed that Tudhope's retirement had been effectual, and he was not regarded or treated as a shareholder.

When Tudhope retired, it was thought that persons who had subscribed for the stock might have been induced to do so by reason of his connection with the company, and such persons were given an opportunity to transfer their shares. Shelden availed himself of this option, transferred his stock, and thereafter assumed that he had no further connection with the company.

In all this every one acted honestly. There were substantially no creditors; and all that was done was done in good faith.

In the application of Tudhope for the shares he applied and subscribed for 100 shares and agreed to accept them and to pay for them 20 per cent. on signing the application and 10 per cent. each succeeding month until fully paid. The shares were allotted to him, notice of the allotment was given to him, and he was registered in the books of the company as a shareholder. He became a director and president of the company, and attended meetings. No part of the price of his shares was paid. By resolution of the directors, at a meeting held on the 5th August, 1910, the cancellation of the agreement with the Tudhope company and Tudhope's release from liability for his stock and the other arrangements were approved; and at a meeting on the 26th August, the day on which the transfer by Tudhope to Lindsay was recorded, a call of 25 per cent. upon the directors' subscriptions was authorised.

The Master held that Tudhope was liable because the payments were in arrear under the terms of his subscription, and therefore the stock could not be validly or effectually transferred. He also regarded the arrangement made as in effect a surrender of the shares and not a transfer. He also suggested that the transaction between Tudhope and the company could not be regarded as a "compromise."

In addition to contesting his liability, Tudhope attacked the validity of the entire proceedings under which it was sought to make him liable, upon the ground that the liquidation had come to an end.

The learned Judge said that, in his opinion, the allotment of the stock and the notice of the allotment amounted to an acceptance of the offer contained in the application. A contract was thus formed, under which Tudhope did not become a subscriber for stock subject to call, but a subscriber for stock upon the terms of the contract. The payments of 20 per cent. upon the signing of the subscription and 10 per cent. in each succeeding month became