

Now, defendant never did ship it back, nor take any steps to see that his successor in the business did so; but he left his successor in possession of the goods without giving plaintiffs any further notice of his intention with reference to the goods.

In any aspect of the case, one-half of the value of the consignment is represented by the bottles and cases, and one-half by the liquid contents, and the Judge has correctly found that defendant has not discharged the onus which lay on him of shewing that he had returned these "empties;" and the 22 cases being returned in July, 1901, would seem to indicate that, to that extent at least, the goods complained of were used.

Appeal dismissed with costs.

BRITTON, J., gave reasons in writing for the same conclusion.

MABEE, J., also concurred.

NOVEMBER 12TH, 1906.

DIVISIONAL COURT.

SOVEREEN MITT, GLOVE, AND ROBE CO. v. WHITE-SIDE.

*Company—Directors—Filling Vacancies in Board—Quorum
—Special Meeting of Shareholders—Injunction.*

Appeal by plaintiffs from order of MACMAHON, J., 8 O. W. R. 279, dismissing motion to continue an interim injunction restraining defendants, shareholders of plaintiff company, from electing at a meeting of the shareholders called for 4th August, 1906, directors of the company to fill the vacancies caused by 4 directors ceasing to be shareholders.

J. Bicknell, K.C., for plaintiffs, the company and the remaining 3 directors, contended that the shareholders had no power to fill vacancies, but only the "board of directors."