communication from the bank until notice by the liquidator claiming to put them on the list.

The touchstone is, did they or either of them ever become shareholders? I think they did not. Counsel for the liquidator bases his long and luminous argument and instructive exposition of the banking law on the assumption that they did. He opens his argument by saying: "Undoubtedly Mr. Sproat and Mr. Murray subscribed for shares. Undoubtedly they became shareholders. Undoubtedly they executed to their attorney, Mr. Lindsay, transfers of their shares or some of them," etc. If his assumption were correct, then his elaborate argument, that they could not and did not legally assign under the Bank Act and could not and did not rid themselves of their liability, including the double liability, but got only Lindsay's guaranty, has the greatest force. I, however, do not agree that they became shareholders, and I think it not very material what the form of the judgment relieving them was. The plainly evident intention of what took place, which I have detailed, shewed feverish haste by the provisional directors to get rid of the plaintiffs and their action, on any terms. I do not think that any argument against Sproat and Murray can be built on the assignments which Lindsay obtained not complying with the Bank Act. There was nothing to assign, and the idea of assignment came wholly from the bank. At that time the matter rested wholly on the application—there were no directors or books or certificate allowing the bank to commence business for a month afterwards. When the directors were elected, there was no attempt, as I think, to allot to Sproat or Murray, and no notice of allotment. There is a right to go behind the words of the judgment and shew the real transaction: *Cockburn* v. *Kettle* (1913), 28 O. L. R. 407; *Sauermann* v. *E. M. F. Co.* (1913), 4 O. W. N. 1510.

The requirement of sec. 13 of the Bank Act is, that there be $500,000 *bona fide* subscribed, and that $250,000 thereof has been paid to the Minister. If, as I gather, Sproat's and Murray's alleged subscriptions were used, it is impossible to say, in the light of the judgment and what preceded it, that their subscriptions were *bona fide* or that any part thereof had been paid. All that Sproat and Murray had under the subscriptions was a right (if the subscriptions had been *bona fide*) to receive shares from