

wages due from the company to the labourers, servants, and apprentices of the company for services performed by them, the plaintiffs claiming as such assignees various sums. The company not appearing, judgment was signed on the 3rd April for the plaintiffs in one judgment for the recovery of the several sums claimed by the plaintiffs respectively. A *fi. fa.* was issued on the 5th April upon this judgment and returned "no goods or lands" by the sheriff of Renfrew.

Lee then brought this action against the directors under the provisions of the Ontario Companies Act, 7 Edw. VII. ch. 34, sec. 94, for his claim, and obtained judgment as above.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

H. Guthrie, K.C., for the defendants.

Frank Denton, K.C., for the plaintiff.

RIDDELL, J. (after referring to the facts), said that, whatever might have been the case under a slightly different state of circumstances, the men owed the plaintiff until he actually received the money from the company, the company owed the men until they actually paid the plaintiff, and the whole transaction was in effect an equitable assignment of the wages. The plaintiff rightly sued the company as an assignee of wages. The company did not object to the frame of the action; and the judgment, while irregular, cannot be attacked by a stranger for irregularity, in the absence of fraud, which is not here alleged: *Balfour v. Ellison*, 8 U. C. L. J. 330; *Tait v. Harrison*, 17 Gr. 458. This cures not only the irregularity of suing all claims as one, but also the irregularity (if it be one) of suing without the assignees being added as parties.

The judgment then is valid, so far as these proceedings are concerned; even if a judgment in another action can be attacked here at all by a sidewind.

The judgment, then, is by an assignee of wages, and the sole question open is, "Do the provisions of the Act extend to the assignee?"

The Act reads (sec. 94): "The directors of the company shall be jointly and severally liable to the labourers, servants, and apprentices . . . for all debts not exceeding one year's wages due for services performed. . . ."

The liability imposed by statute is not like a contract for personal service—there is no *delectus personæ* such as in British