

That the goods were in the possession of the defendants at the time of the seizure, was admitted by the plaintiffs at the trial; the statement of their counsel was: "They were seized in the premises of the company at Cochrane;" and the form of the issue, putting the onus of proof upon the plaintiffs, shews it.

That possession was evidence of ownership; but, in addition to that, all of the Davids, are by their acts and their evidence precluded from asserting any other ownship; and it is not suggested that any one else could be the owner of them; and if anyone else were, the plaintiffs must likewise fail upon this issue.

Then the defendants being the owners as against Abraham David, how can the plaintiffs succeed in this issue? In one way only—by proving that the goods were the property of Abraham David, and that they were acquired by the company with intent, on their part, to defeat his creditors; I say on their part, because the acquisition was not a voluntary one; the company's stock was given in consideration for the property it acquired.

Neither of these things—each of which is necessary to the plaintiffs' success—is proved. One may be suspicious as to Abraham David's ownership before the company acquired the goods; but suspicion is not proof; and the onus of proof was on the plaintiffs, an onus which was very far from being fairly and reasonably met by a lot of loose, rambling, and wholly inconclusive, evidence. And as to any fraudulent intent on the part of the company, there is really no evidence. Beside Abraham David, there were at least four shareholders, one of them being the solicitor, Mr. Porter; and there is no evidence of Abraham David being any more than a mere shareholder.

I can find no warrant in the evidence for the assertion that the defendants make no pretence of title except through Albert and Rashada David; they were not called upon to make proof of title; that obligation was on the plaintiffs; the defendants' possession alone was proof of their title at the time of seizure, and could not be disturbed by the plaintiffs except on satisfactory proof that, at that time, Abraham David was really the owner.

Nor can I at all agree to the succeeding assertion that if the goods really belonged to Abraham, and not to Rashada or Albert, the defendants could not have acquired title to them; for surely even acquiescence only by Abraham in a transfer by the others to defendants would carry any right he