

fairly be taken that a disclosure of all the facts connected with the shares in question, would not have helped him.

There is no evidence upon which it could rightly be found that Leitch is in any way liable to the company, or its creditors, upon the stock in question: there is no sufficient evidence that he ever had any legal or equitable right, or title to it, except that which the assignment from the appellant to him, may have given; and that assignment was never carried into effect, as the evidence shews, and the appellant's subsequent proxies make plain: proxies which make strongly against the appellant's contention and testimony that he never was a shareholder, as well as against his contention that he was a pledgee only, because it is the pledgor, not the pledgee who has the right to represent the stock, and vote as shareholder: sec. 33.

The learned referee was, I find, right in his conclusion. The appeal is dismissed with costs.

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HON. R. M. MEREDITH, C.J.C.P. MARCH 4TH, 1913.

THE EMPIRE ACCIDENT & SURETY CO. (BARTON'S CASE.)

4 O. W. N. 929.

*Company—Contributory—Evidence—Receipt of Dividends.*

MEREDITH, C.J.C.P., dismissed with costs an appeal from the Official Referee placing appellants upon the list of contributories of a company as executors of one Barton, holding that the evidence had fully established that Barton had been a shareholder of the company.

An appeal Barton's executors as in previous case. Argued at the same time by same counsel.

HON. R. M. MEREDITH, C.J.C.P.:—The appeal in this case was argued with that in *Faill's Case*, the evidence in the two cases having been taken together, some of the facts being applicable alike to each case.

The appellant's contention is that there was not sufficient evidence to warrant the finding of the referee that Barton was a shareholder of the company; but, upon the evidence adduced before the referee, it is impossible for me to give effect to that contention.