

at fairly, the moneys advanced by the plaintiff went to recoup Mr. Lobb for what had been previously advanced by him.

As to the main point, sec. 9 of the Assignments and Preferences Act was first introduced in the statute of 1895. The need for the amendment was said to have been because it had been held that an assignment of part only of a debtor's estate was not within the statute: see Cassels's Assignments Act, 4th ed., p. 71. There seems to be no case in which its provisions have been considered. It applies to "every assignment for the general benefit of creditors." The controlling idea of the arrangement evidenced by the trust deed clearly was to place in the hands of Mr. Lobb the uncontrolled management of the work of completing and selling the partly finished houses, in which, it was apparently believed, would be found considerable profit—enough, it was hoped, to pay every one in full. That idea could not have been carried out by means of the usual assignment under the provisions of the statute, where the assignee is always completely under the control of the creditors. The creditors were not bound to accept the benefits, if any, intended for them under the trust deed; conceivably, they might even attack it; but what they could not be allowed to do was both to appropriate and reprobate, which was what, by the mouth of the appellants—whose only right to be here at all was derived under the trust deed and the order of substitution—they were trying to do.

*Appeal dismissed with costs.*

FIRST DIVISIONAL COURT.

JANUARY 24TH, 1916.

McCAMMON v. WESTPORT MANUFACTURING AND  
PLATING CO. LIMITED.

*Company — Winding-up — Action by Liquidator to Recover  
Chattels—Evidence—Sale and Transfer of Assets—Minutes  
of Company—Findings of Fact of Trial Judge—Reversal  
on Appeal.*

Appeal by the plaintiff from the judgment of LENNOX, J.,  
ante 6.

The appeal was heard by MEREDITH, C.J.O., GARROW, MAC-  
LAREN, MAGEE, and HODGINS, JJ.A.

J. A. Hutcheson, K.C., for the appellant.

D. A. McGee, for the defendants, respondents.