

time. And, as I mentioned in the reasons for giving leave to appeal this case, the decision of the Divisional Court may be said to be the first determination of the precise question.

For the reasons given by the Divisional Court, as well as those here stated, I am of opinion that the decision is right and that this appeal should be dismissed.

GARROW, J.A., and SUTHERLAND, J., agreed in dismissing the appeal, the former stating his reasons in writing.

MEREDITH, J.A.:—Upon the main point involved in this appeal it is especially necessary to start from the right premises if we are to reach, without great difficulty, a right conclusion; and I cannot choose but think that the respondent's contentions are based upon a false start in two quite material respects. In the first place, it seems to me to be quite fallacious to assume that the ownership of stock in an incorporated company is, in all things, the same as the ownership of pigs, sheep or corn; it seems to me to be important to remember that such a company, and the rights of its shareholders, are of the house and lineage of a partnership, and of the rights of its partners; to remember that a share in such a company carries with it not only the certificate, which is evidence of it, and a right to dividends, but also a joint interest, with all other shareholders, in the whole concern, with a voice in its control and management; it is very different with the case of the pig, the sheep or the corn, in which an absolute ownership, and sole control, go with the sale of the carcase or article. In the second place, it seems to me to be equally fallacious to assume that the provisions of the Act, declaring that the stock of a company "shall be personal estate," were meant to give to it all the attributes of goods and chattels; their purpose was to distinguish between real and personal property, and to give to the stock of all companies, incorporated under the Act, the character of personal estate, whether the property of the company—and so of the shareholders—happened to be real or personal, adopting the rule in equity in regard to the share of a partner in a partnership.

Then it is important to bear in mind that practically all companies created in this country must be created under the provisions of the enactment in question, or under similar provincial enactments, which were intended to do away with the need for any incorporation under a special Act in practically all cases, a proceeding the expense and delay of which would make it prohibitive in most of the innumerable present-day incorporations.