

authority by her daughter. The defendant was unable to read or write, though of fair business capacity. The evidence, as urged by the plaintiffs, shewed authority from defendant to sign, and also satisfaction by her. The jury found for the defendant.

The court, not being satisfied with the finding, directed a new trial with costs to the successful party in the cause.

Delamere, for the plaintiffs.

D. O. Cameron and *F. McPhillips*, for defendant.

Falconbridge, J.]

ANGLO-CANADIAN CO. v. WINNIFRITH.

Copyright—Proof of copyright—Domicile—Right of benefit of statute—Knowledge of copyright—Costs—Damages.

Motion for an injunction to restrain defendants from importing and selling, or offering for sale, in Canada, certain musical compositions of which plaintiffs claimed the copyright. The evidence as to copyright was that of the plaintiffs' manager, who stated on affidavit that plaintiffs were a company incorporated under the English Companies' Act, for securing Canadian copyright in musical compositions, and to acquire the protection of the Canadian Copyright Act, 1875, having their registered office in London, Eng., and their Canadian office at Toronto, and stating in a schedule to his affidavit the names of the said compositions and the dates of copyright.

Held, that for the purposes of the injunction, there was sufficient evidence of copyright.

It was objected, on the hearing, that the plaintiffs' domicile was in England, and not in Canada; and therefore the plaintiffs were not entitled, under s. 4, to the benefit of the Act, and that by s. 32 it should have been shown that defendants imported the publications with knowledge of plaintiffs' right.

Held, that there was nothing in the objections as to domicile, for if they were assignees there, there was no restriction to the right to obtain copyright so far as domicile or citizenship was concerned; but, if they were the authors, then the domicile was in London, where the head office is, and that is certainly a part of the British possessions within the

meaning of the Act. In either case the plaintiffs were entitled to the sole and exclusive right of publishing and vending the said works in Canada.

Held, also, that it was not necessary to show that the publications were imported with knowledge of plaintiffs' right, though that would be important on the question of costs and damages.

The defendants appeared to have innocently imported the books, and, on being made aware of the infringement by the service of the writ, expressed regret, and though they did not offer to undertake to discontinue the infringement, they stated in evidence that such was their determination.

Held, that the injunction must be granted, and had the defendants simply appeared on the motion, admitted the plaintiff's rights, and consented to the injunction, no costs would have been imposed, but as defendants had contested the plaintiffs' rights, and thus, to a certain extent, justified the plaintiffs' course, the plaintiffs were entitled to the costs.

Bain, Q.C., for the plaintiffs.

Hector Cameron, Q.C., for the defendant

Chancery Division.

Full Court.]

[Dec. 21, 1887]

SIMMONS v. SHIPMAN.

Title of possession—Successive occupiers without mesne conveyances.

Held, reversing the decision of O'CONNOR, J., that to bar the true owner, and to give a possessory title to land under the Statute of Limitations, the fact of actual possession is the material thing, and this possession must be of a continuous character by successive occupants claiming in some sufficient way under each other, but it is not necessary that this possession should be strengthened or corroborated by intermediate conveyances. The Act speaks of possession without reference to conveyances. It is not correct to say that whenever in an action for the possession of land the plaintiff seeks to show a title by length of possession by himself or those through whom he claims, he must in order to succeed be able to show a deed or writing from each former occupant or