

ceased to own the shares. As I read the statute, the ownership and the indebtedness must be concurrent; and the section cannot be read as if it gave authority to the directors to refuse to register when the transferee is, at the date of the application, indebted. The section itself seems to be carefully worded so as to require indebtedness at the time of the ownership; and the ownership is by sec. 64 made independent of registration.

It was argued that the transfer ought not to be permitted because of the terms of the agreement. In the first place, the transfer is not a sale, which is the only transaction that gives to Polson and Miller any right to purchase under the agreement. In the second place, the agreement in question is an agreement with Polson and Miller, not with the company; and, the trustees taking with full notice of the agreement, will hold, subject to its terms; and any rights that Polson and Miller may have can be exercised against the trustees.

Objection was taken to the remedy sought. It was said that a mandamus would not lie. I think this is determined in favour of the application by the case of *Crawford v. Provincial*, 8 U. C. C. P. 263. See also the recent decision in *Rich v. Melancthon*, 21 O. W. R. 517; 3 O. W. N. 826.

The order for mandamus will go as sought, with costs.

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DIVISIONAL COURT.

MAY 15TH, 1912.

COOPER v. LONDON STREET Rv. CO.

3 O. W. N. 1277.

*Negligence — Street Railway — Passenger after Alighting — Crossing Tracks — Struck with Car from Opposite Direction.*

FALCONBRIDGE, C.J.K.B., gave judgment in favour of plaintiff on findings of jury in an action for damages for injuries sustained by being struck by defendants' car after having alighted from another car and while attempting to cross the opposite track.

DIVISIONAL COURT dismissed appeal with costs.

*Wright v. Grand Trunk Rv. Co.*, 12 O. L. R. 114, 7 O. W. R. 636, followed.

*Brill v. Toronto Rv. Co.*, 13 O. W. R. 114, distinguished.

An appeal from a judgment of HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B., in favour of plaintiff.

The appeal to Divisional Court was heard by HON. SIR JOHN BOYD, C., HON. MR. JUSTICE TEETZEL and HON. MR. JUSTICE KELLY.