

action was that the plaintiffs were not allowed this credit, and so have not been paid its amount. . . . I am not disposed to disagree with the conclusion then arrived at. . . . Apart from whatever may have been the defendant's right as between him and Leadlay, I fail to see that the arrangement between them, to which the plaintiffs were not parties, had the effect of finding the plaintiffs to relieve the defendant from that indebtedness—particularly as the plaintiffs have not been allowed it as a credit on the mortgage.

Much the same may be said if the item of \$3,279.22 . . . which, the defendant contends, was to have been credited upon the Leadlay mortgage at a time when the mortgagees released certain lands from the mortgage, and when the defendant made a promissory note in respect of this sum to Mr. Leadlay. The evidence and the records do not substantiate that defence. . . . The defendant is not entitled to the credit which he claims against the company . . . not having paid his note given for this sum, he is liable therefor to the plaintiffs.

The next item is a claim for \$8,166.66 . . . credited in the plaintiffs' books to the defendant for special services and paid to him by the plaintiffs. . . . This transaction was of such an unusual character as to have required the special attention of the plaintiffs, if it was their intention to give or sanction the credit; . . . and it is but reasonable to expect that, if the plaintiffs had taken any action thereon, it would have been evidenced by some by-law or resolution or other express act, clearly shewing its nature and effect. The entry of this credit to the defendant, in 1893, was made by . . . a clerk . . . at the defendant's dictation. . . . In view of all the circumstances, I do not think that this credit taken by the defendant can be upheld against the plaintiffs; the latter, having paid the amount, are entitled to recover it.

The next item of claim is based on the allegation that the defendant unlawfully credited his account with items of commission and interest to the extent of about \$3,000, and that such credits were paid him by the plaintiffs. . . .

It is quite clear that, under the terms of the plaintiffs' by-law No. 26, what the defendant was entitled to was \$5,000 per annum from the beginning of his services, and that he was not entitled to any other commissions or allowances in addition . . . If, therefore, on a proper taking of his salary account, it be shewn that he has received for the term commencing with the beginning of his services and down to the end of the time