Hon. Mr. Justice Middleton: — The five hundred shares in question were acquired by Mr. Main under and pursuant to the terms of an agreement of the 27th June, 1906, between Mr. Main and Messrs. Polson and Miller, by which Mr. Main undertook to transfer to the Polson Company all the assets of the Canadian Heine Safety Boiler Company, in consideration of the issue of these five hundred shares. As part of the same agreement, Mr. Main agreed to subscribe for $25,000 capital stock of the Polson Company, for which he was to pay when calls were made by the Board of that company.

By this agreement certain rights are given to Messrs. Polson and Miller, enabling them to acquire the $75,000 of stock upon payment to Main of the value of the stock as shewn by the books of the company, in the event of Main ceasing to be in the service of the company, or upon Main desiring to sell the stock. This agreement, made originally with Messrs. Polson and Miller, was adopted by the directors and shareholders of the company, by appropriate bylaws.

The five hundred paid-up shares were duly issued, and the 250 other shares were duly subscribed for. The stock is subscribed as follows: "Five hundred shares to be issued as fully paid-up and non-assessable, pursuant to by-law No. 40, and to be held subject to the terms of agreement referred to in said by-law"; the agreement and by-law being those above mentioned.

On the 15th September, 1911, by his marriage settlement, Mr. Main transferred the five hundred paid-up shares to the applicants. This instrument was duly executed on the 16th. At this time no calls had been made upon the 250 shares; but, subsequently, on the 28th day of December, 1911, a call of twenty dollars per share upon all unpaid stock of the company was made by the directors. This call was payable on the 4th January, 1912, and notice was duly given to Mr. Main on the 28th December.

Mr. Main, for reasons which he thinks justify him in doing so, refuses to pay the call; and his counsel states that if any attempt is made to collect payment of the calls Mr. Main is advised that he has a good defence to any action that may be brought.

For some reason the trustees omitted to apply for registration of the transfer until the 5th January, when the