

Breton company made an agreement for the purchase by the defendant of that company's plant and dredging contracts with the Dominion Government, the consideration being the transfer by the defendant to that company of 1,455 fully paid-up shares in the new company and the assumption by the defendant of all existing liabilities of the Cape Breton company. On the same day an agreement was made between the defendant and the new company for the sale by the defendant to that company of what the defendant had acquired from the Cape Breton company, in consideration of the transfer by the new company to the defendant of 2,500 fully paid-up shares and the assumption by the new company of the old company's liabilities. During the season of 1909, dredging operations were carried on by the new company with the plants so purchased. Misunderstandings arose between the plaintiff and defendant relating to the liabilities of the old company; and, in order to settle the differences, an agreement was made between the plaintiff and defendant on the 23rd February, 1910, by which, among other things, the defendant agreed that the assets referred to in the agreement of the 1st May, 1909, should be turned into the new company fully paid and free from all incumbrances, and that any liabilities of the old company "assumed by the (new) company without corresponding value" should be paid by the defendant and should not fall on the company. In the first action the plaintiff alleged that liabilities of the old company to the amount of \$34,436.83 were paid by the new company, which, under the agreement of the 23rd February, 1910, the defendant should pay to the new company; and the plaintiff claimed a judgment directing the defendant to make such payment, and \$50,000 damages for breach of the agreement. KELLY, J., said that the language of the last agreement ("without corresponding value") was not of itself such as to make it possible to arrive at the intention of the parties; and it was proper to consider the circumstances and the object which the parties had in view: *River Wear Commissioners v. Adamson* (1877), 2 App. Cas. 743, 763. Upon consideration, he was of opinion that, if any effect or meaning was to be given to the words "without corresponding value," it might reasonably be held that it was contemplated that the liabilities from the time Thompson's inspection was completed (that is, the 18th March, 1909, before the agreement of April, 1909), would be assumed by the new company, and that the liabilities down to that time were liabilities assumed "without corresponding value," and which should be paid and discharged by the defendant. On this basis, and allowing certain credits to the