The actions were tried together, without a jury, at a Toronto sittings.

J. W. Bain, K.C., and M. L. Gordon, for the plaintiffs.

A. C. McMaster and J. M. Bullen, for the defendants Crawford and Dunn.

J. J. Maclennan, for the defendants the executors of Galbraith.

LENNOX, J., in a written judgment, said that he was of opinion that the plaintiffs in the second action had a legal status to maintain it.

In 1902, Davies, Deacon, Dunn, Crawford, and Galbraith were the directors of the association and negotiated and consummated the sale and transfer of the assets of the association to the loan company. The consideration stated in the deed of transfer was not the full or true consideration for the sale and transfer of the assets and rights of the association and its shareholders: there was an additional consideration of $30,000 secretly bargained for and obtained by the five directors. Knowledge of the true consideration was intentionally and studiously concealed from the shareholders of the association; and the approval of the other shareholders and the sanction of the Attorney-General for Ontario were obtained by the false and fraudulent representation of these directors as to the nature and character of the transaction. The directors were thereby enabled to obtain and did secretly obtain and appropriate to themselves the sum of $30,000, the property of the shareholders of the association. In entering upon and carrying out the transaction the directors conspired together wrongfully and secretly to divert and appropriate to themselves, and did in fact and in law, and in breach of their duty as agents of the association, wrongfully appropriate, the entire cash consideration paid by the loan company for the transfer, namely, the sum of $30,000.

It was contended that there was a lack of corroboration as to the actual receipt by the deceased Galbraith of his share of the money; but, if he united with his co-directors in a scheme to defraud the shareholders—and of this there was undoubted corroboration—they became joint tort-feasors, and it did not matter who got the money. The consummated agreement to make the wrongful diversion, not the division, was the matter of consequence.

The learned Judge was also of opinion that the second action now before him was not barred by settlements or compromises of previous actions.

It was argued that the association had ceased to exist; but all the credits, rights of action, etc., that the association and its shareholders had when the transfer was consummated, were now