

from the indebtedness to the bank, in consideration of both the husband and wife agreeing to make the transfers provided for in the settlement of July, the defendants put it out of their power to proceed for the recovery of the \$5,000 per year payable by the Bank of Hamilton. Mr. Stuart said he had understood that was not available for creditors, but it is quite apparent that the defendants could have obtained judgment against Mr. Stuart and obtained a receiving order and swept away from him the monthly payments from the Bank of Hamilton.

Many deeds were executed as provided for by the settlement of July, 1904, the properties turned over to the bank, stocks sold, some of the real estate, if not all, it was said in argument, had been sold, and the position of the defendants entirely changed.

In 1903, during the liquidation of the Sulphite Company, the defendants were in litigation with the liquidators, and on 6th October, 1903, Mrs. Stuart joined in an agreement authorizing the settlement of that litigation, upon the strength of which the defendants made compromises and otherwise changed their position, and made a cash payment to the liquidators of \$15,000.

On 24th February, 1896, 5 shareholders and their representatives transferred to the plaintiff 134 preference and 100 ordinary shares (in all \$23,400) "in consideration of Mrs. Jane J. Stuart giving a guarantee to the Bank of Montreal for advances made and to be made to the company to the extent of \$100,000." Mrs. Stuart signed acceptances of the transfer of these shares upon the books of the company, and from time to time gave proxies for them to be voted upon. In a letter written by Mr. Stuart to Mr. Bruce (who was a shareholder and guarantor to the bank) of 12th February, 1896, he says: "The question at once presents itself, what inducement can we offer to any one to assume the responsibility of guaranteeing the necessary advances (\$100,000 referred to in the letter) and how can the matter be arranged? . . . I believe I can procure the guarantor required by the bank for the new advances, or the security of a lien on material to the bank, and the postponement by Mr. Lee and myself of our claims for cash advances, together with a reasonable bonus in the way of stock, which may under existing circumstances be considered of only nominal value. It is of course most vital to me to save this property