

The defendant company was capitalized at one million dollars. The defendant Weaver denies that he stated to the plaintiff that the defendant company had paid \$250,000 for Canadian patents. He admits that amount was mentioned by him when speaking to the plaintiff, but states that what he did say was as follows: "I understood it to be the holding company for Canada, and as you will notice on page 23 of the prospectus, it says the Automatic Electric purchased the Canadian rights from W. C. Carr, and I always understood it myself that those were Canadian rights; that \$250,000 he was in error on that; that had nothing to do with the Canadian Transportation whatever. At page 23 of the prospectus it said those patents were the Canadian patents and purchased from W. C. Carr leading you to infer it was for the whole of Canada. I honestly made the representation and believed it to be true."

While on the whole I prefer the evidence of the plaintiff to that of the defendant Weaver where they differ, I am, on this question, unable to give entire effect to the plaintiff's version. Believing as I do that he must be held to have received a copy of the prospectus he would, if he read it, as he must also, I think, be assumed to have done, see therein, at page 22, the following: "(d) 80,000 fully paid up shares were issued by the company to the Automatic Electric Limited, holders of the Canadian patent, in consideration of the sale and transfer of rights to this company, together with royalties which were agreed to be paid. It was for this consideration that license and privileges now held by the company were obtained. No amount beyond such being payable for good-will. The contract bears the date the 9th day of March, 1909, and may be inspected during office hours at any reasonable time at the office of the company." The stock being worth \$10 a share, this would plainly indicate to him that not \$250,000, but \$800,000 had been paid in shares to the Automatic Electric Limited, and if he had asked to see the agreement he would find a similar statement therein.

I am of opinion therefore that he cannot be considered to have been deceived in the way he alleges on this point and that it cannot be found that any fraudulent representation was made to him in connection therewith. Nor do I think he can succeed in setting aside the sale of this first block of stock on the ground on which he bases his claim in paragraph three of the original statement of claim. In