

On the eve of the trials, the defendants accepted a proposition made by Hanson that he would undertake to clear the title of the claims in litigation if the plaintiffs would reduce the purchase money by \$50,000. As put by Mr. Boulthbee in his testimony, they lowered the price from \$250,000 to \$200,000 if Hanson would remove the cautions, and he might have had to pay more for it (p. 149).

The position was that he said, "Change the consideration to \$200,000, and I will assume the risk of that caution" (p. 151). It ultimately turned out that Hanson was able to effect a settlement on payment of \$30,000 and \$2,000 for costs, thereby making a gain of \$18,000 on the arrangement with the defendants. But in order to procure the \$30,000, Hanson had recourse to Mr. A. G. Browning, a solicitor of North Bay, from or through whom he obtained an advance of that sum upon the terms of an agreement between them, dated 11th April, 1906. And as part of the agreement there was executed contemporaneously therewith an assignment by Hanson to Browning of all the former's estate and interest in, to, and under the agreement with defendants of 15th January, 1906, and the mining lease of the property issued to the defendants, and assigned or agreed to be assigned by them to Hanson (exhibits 22 and 23). Hanson's assignment to Browning was only by way of security for repayment of the advance of \$30,000, together with an additional sum of \$30,000 for the use of the \$30,000 advanced, on or before 26th May, 1906.

Now, it is not open to serious doubt that up to this period the plaintiffs' rights in respect of commission on the sale remained unaffected. Hanson continued in the position of purchaser, entitled as against the defendants to the benefit of the agreement of 15th January, 1906, subject only to paying the purchase money, except in so far as the defendants had seen fit, on a question of clearing the title, to vary the extent of their claim under the agreement.

In what way did the subsequent dealings and transactions alter the situation so as to affect the plaintiffs or deprive them of their rights? As matters appear to me, all that was done was a continuation of the original agreement of sale and purchase by persons whose claims arose through Hanson and were based on his rights.

On 24th April, 1906, the defendants assumed to enter into an agreement with Browning for a transfer to him of the mining lease of the property, for the consideration of