

THE COURT (MEREDITH, C.J., TEETZEL, J., ANGLIN, J.), affirmed the judgment, with a variation agreed to by counsel, to the effect that the declaration of plaintiffs' lien in the formal judgment be struck out, and that the amount which shall be found by the Master to be due to plaintiffs be paid out of the money in Court. No costs of the trial or of this appeal. Further directions and other costs reserved to be disposed of by a Judge in Chambers after the Master's report.

ANGLIN, J.

JUNE 13TH, 1906.

TRIAL.

ELLIS v. NORWICH BROOM AND BRUSH CO.

*Company—Sale of Assets by Directors to Managing Director
—Action to Set aside—Direction to Hold Meeting of Share-
holders to Ratify or Disapprove Sale.*

Action to set aside as ultra vires and improper a sale by the directors of the defendant company of all the assets to the defendant Dougherty, managing director of the company.

R. N. Ball, Woodstock, for plaintiff.

J. G. Wallace, Woodstock, for defendant.

ANGLIN, J.:—Had this sale been to a stranger, I do not think the right of the directors to make it could be successfully challenged: *Wilson v. Miers*, 10 C. B. N. S. 348; *Whiting v. Hovey*, 14 S. C. R. 515, 13 A. R. 7. But, as a sale by the trustees to one of themselves, its validity is certainly open to question. Upon the evidence it is impossible to find that this sale was ever sanctioned by the shareholders. Yet it is reasonably clear that, if it should now be set aside, the shareholders would themselves immediately take steps to effect a similar sale to defendant Dougherty. Of their power to make such a sale there can be no question. It therefore seems proper before disposing of this action to direct that a meeting of the shareholders may be called for the consideration of the sale to Dougherty effected by the directors, and that they be asked to ratify it or express their disapproval of it: *Bainbridge v. Smith*, 41 Ch. D. 462; *Pender v.*