

plaintiff declined to remain longer with the new company on a yearly hiring—but consented to remain with the right to leave at any time. To this the company agreed. It would be quite reasonable that the defendant as holder of shares in the company to a considerable amount, should desire the continuance of the plaintiff—as superintendent—and that he would be willing to pay something out of his own pocket to keep plaintiff on. The defendant as part of his evidence said: “As far as any agreement with him was concerned paying him \$4,300 or asking him to remain, that is not so—I never asked him to remain—I did not care a snap of my finger whether he remained or not.”

“Q. Did you tell him so? A. Yes, I told him at many a meeting of the directors.”

In endeavouring to ascertain the real truth of this matter, I have carefully considered all the circumstances of their business, their relationship to the company and to each other, I was not assisted by the demeanour of either on the witness stand.

On the 12th October, 1908, the defendant was the holder of 1193 shares fully paid up common stock in the Wm. Hamilton Company, Limited, and the plaintiff and J. C. Smith and the defendant had each subscribed for 50 shares of preferred stock. On that day these three entered into an agreement in writing in reference to the sale and payment for shares. They were manipulating shares of the company for their own advantage and they were properly careful to have the agreement in writing down to the most minute detail.

On the 31st October, 1908, the defendant having been connected with A. R. Williams Co., and having a large amount of property, sold this property to the Wm. Hamilton Company for a large amount of money and a very full and complicated agreement was made. The defendant was to receive \$65,000 in cash payable as therein stated. He was also to get 350 shares preferred stock and 1000 shares of common stock in the Hamilton Company. The defendant agreed to sell additional preferred stock to the amount of \$95,000 upon which 10% should be paid to the company; of this \$20,000 should be subscribed for on or before 1st March, 1909, \$20,000 1st July, 1909, \$40,000 1st July, 1910, and \$15,000 1st July, 1910—provisions as to default and other provisions to which it is not necessary now to refer. The plaintiff, defendant and Smith were directors and prac-