

any further tolls, rents, &c., of the company, arising from the said canal or otherwise, or from interfering with the affairs of the said company, or the conduct or management thereof, *until* the election of some fit and proper person and persons *as the president and directors of the said company*, and that in the mean time a receiver should be appointed, and for further relief.

1849.
Hamilton
v.
Desjardins
Canal Co.

The defendant *Paterson*, by his answer, admitted having made loans of the money as stated, but that the same was loaned on each occasion in good faith, and with a view to realize interest on whatever funds might be on hand; denied excluding the other directors from the management of the affairs of the company and refusing to account, and stated that every year, since his appointment, he had caused an annual statement of the affairs of the company to be made: admitted his having undertaken to call the meeting, and his refusal to comply therewith, as stated in the bill; and that he had subsequently called the meeting referred to in the bill at Toronto, as the greatest amount of stock was held by persons residing in and about that city; and that at that meeting the acts of the defendant, and the other directors, were approved of by the majority of the shareholders.

Statement.

The defendant denied having derived any personal benefit from lending the funds, but that he had made use of £350 of the funds of the company, which he was willing to pay interest upon, and that in the books of the company he was charged with the sum of £2351, which included the sum so applied to his own use, and that he had always been ready and willing to give security for all sums loaned out by him, as well as the sum of £350, but on offering to the solicitor of the company to give such security he declined, saying that it was unnecessary.

The defendant also stated in his answer, that he had executed a mortgage to government for £12,000 on account of the debt due by the company to the government in respect of this canal, and loaned by government to the company, under the authority of the statutes (of Upper Canada) 2 W. IV., ch. 4; 5 W. IV., ch. 34; 7 W. IV., ch. 65; and to secure which the canal was mortgaged to the government.