

paid, and that he would call the attention of petitioners to the fact that we were not to be troubled further about his costs, which he evidently did as appears from his letter to the petitioners dated September 28th, 1909, when he tells them 'your good selves have nothing at all to do with any action as between the Canadian Canning Company, Limited, and myself with regard to the account, and I accordingly enclose herewith my cheque for \$51.61, which kindly acknowledge, and I shall be further obliged if you will let me have your account.' "

10. "From this date on and until long after the judgment between the Canadian Canning Company, Limited, and Bostock, had been settled in full as per memorandum of settlement, dated 24th January, 1911, we heard nothing further from the petitioners with regard to their costs."

It appears that originally the Vancouver solicitors had not only instructed the petitioners to act for Bostock in the said action, but had also instructed solicitors at Hamilton to act for the Canadian Canning Company, the Vancouver solicitors apparently acting originally as principals for both defendants and the defendants apparently being at first disposed to act together to a certain extent in their defence.

In the same affidavit in paragraph 14, the Vancouver solicitor says as follows:—

14. "In January, 1911, the defendant Bostock came to me, knowing that I was no longer connected with the Canadian Canning Company, Limited, as manager or solicitor, and asked me if the claim as between himself and Canadian Canning Company, Limited, could not be arranged. I asked him then how he stood in the east, and he told me that he had arranged everything. I was particular to ask him how he stood with his own solicitors and he told me he had paid them some \$490" . . . "I then suggested that he should see Mr. Fleming, the manager of the Canadian Canning Company, Limited, and they came together and made the settlement, dated 24th January, 1911. I was asked to draw this settlement up merely for the reason that I was more or less conversant with the facts of the case. It is for this same reason that when this present petition was presented I was asked to instruct agents in Ontario."

16. "I say that from the time the plaintiffs discontinued their action against the Canadian Canning Company,