payment, either by rent or by cash, in case there should be a sale by the lessor (plaintiff) desiring to sell and requesting the lessee (defendant) to purchase.

The plaintiff did not desire to sell, and did not request the lessee to purchase, and so in fact no sale ever took place, and para. 4 did not come into operation.

The two paragraphs should be read together, the 4th as supplementary to the 3rd; the 4th did not give a distinct right of purchase to the defendant; para. 3 gave to the plaintiff the right to require the defendant to purchase, and the property was not to pass until paid for by the defendant. The 4th paragraph did not purport to give the defendant the right to purchase, but simply provided for payment in case para. 3 came into effect, and then declared that the equipment should become the property of the defendant.

Neither the 3rd nor the 4th paragraph purported to provide for a sale of the business or the goodwill of the business. It was the "equipment" only that was to become the property of the lessee; although, by another paragraph, the lessor agreed that, should the business be purchased by the lessee under this agreement, the lessor would not practise the profession of a dental surgeon within 7 miles of Stirling.

On the 26th January, 1918, the plaintiff gave the defendant notice to quit and deliver up possession of all the dental equipment and of all other goods and utensils leased to him under the agreement, on the 1st April, 1918—a clear intimation that the plaintiff did not intend to avail himself of the right of sale reserved under the agreement.

The appeal should be dismissed with costs.

MULOCK, C.J. EX., in a written judgment, said that he agreed with the construction put upon the agreement by Clute, J., and with his disposition of the appeal. No ambiguity existed as to the meaning of the agreement, and parol evidence in explanation was inadmissible.

RIDDELL, J., in a written judgment, said that the document was ambiguous, and might be read in favour of the plaintiff, although, in his opinion, looked at alone, it should be read in favour of the defendant's contention. The trial Judge was right in admitting evidence of the surrounding circumstances; and the evidence, when read in the light of the finding of fact of the trial Judge, shewed that the intention of the parties was that the defendant should not have the right to purchase *in invitum*. That construction should be given to the contract; or, if not, it should be rectified.

The appeal should be dismissed.