

dividually, parties to the agreement out of which the debt to Douglas arose.

The company's financial statements for 1901, 1902, and 1903 are put in, shewing balances due by Harris & Campbell at the end of the respective years arrived at, after debiting the account with the amounts now in question. Each of these statements was duly audited, and was adopted at the annual meeting at the beginning of the following year. The liquidator was then the company's auditor. As the results only and not the details were submitted to the meetings, the adoption of the statements does not bind the company; and the liquidator, as he is now acting in a totally different capacity, is in no way estopped by his conduct when auditor, from taking the position he now assumes.

It is said that the parties acted openly and bona fide in what they did, and that most of the shareholders either knew or ought to have known what was being done. Assuming it to be important, actual notice is not brought home to any one outside the parties directly interested; and the question of bona fides cannot affect the result.

I have examined the cases cited by Mr. Henderson, but they do not assist him. They all turn on the question of what is a cash payment for stock. There was no necessity for Mr. Douglas's paying cash for his stock. Any valuable consideration accepted knowingly by the company would have sufficed. But to the extent of the \$2,000 in question, no consideration whatever passed from him to the company. He must therefore be settled on the list of contributories for that amount, as asked by the liquidator.

CARTWRIGHT, MASTER.

MARCH 27TH, 1905.

CHAMBERS.

SMITH v. SMITH.

Trial—Order Directing Preliminary Trial of Certain Questions of Law—Separate Issues Disposing of Whole Action—Reasonable Probability of Establishing Propositions of Law — Rule 259 — Jurisdiction of Master in Chambers.

Motion by defendants Robert Jaffray and W. J. Smith, two of the executors of the will of John B. Smith, for an