

stock at a fixed price of thirty cents a share he would be paid a commission of 15 per cent. on the stock being paid for.

He apparently never sold any shares under that agreement, nevertheless he says: "I am claiming under that agreement with the exception of the modification, of the modification under which I am taking 5 per cent."

He explains this by saying that by a subsequent verbal arrangement made with the company he agreed to reduce his commission to 5 per cent. upon all shares of the capital stock sold as a result of his efforts, the defendant company at the same time agreeing to reduce the selling price of shares to 17½ cents. He also says that in negotiating with people at Rochester, N.Y., for the sale of stock he was told by them that there was no use making any proposition to them unless it included an amount of stock which would secure the control of the company.

He also says that after some preliminary negotiations with one Dewey, he got in touch with one Worth, already a stockholder, and his representative, Lyman, and after some further discussion the question of his commission finally came up for consideration. He puts the matter in this way:—

(P. 9). Q. Did Mr. Segsworth and Mr. Lyman and Mr. Worth get together? A. Yes. I just have it verbally from Mr. Segsworth that Mr. Worth and he had fixed up everything nice and smoothly, that Mr. Worth was to be the president, Mr. Segsworth to be secretary-treasurer, and he said they were just as fast friends as they used to be.

Q. Did Mr. Segsworth or Mr. Worth tell you what the deal was to be? A. Just the control of the stock.

Q. At the same terms, 17½ cents? A. Yes.

Q. Then you say Mr. Worth left? A. Left Mr. Lyman.

Q. Left to go to Philadelphia? A. Yes.

Q. Left Lyman behind? A. Yes.

Q. Was there anything transpired between Mr. Segsworth, Mr. Lyman and yourself? A. Yes, we went in to supper and sat down, and Mr. Lyman said well, he was pleased to see things going so favourably, and that they were better friends than they were before, the only hitch would be in the proposition as to my commission of 15 per cent.; Mr. Segsworth says: "Well, it is up to Billy, you are the one that has the agreement, what do you think would be fair?" I thought for a moment and said: "Well, I want to