

ceed further, he was at liberty to retire, and was entitled to the money he deposited. The deposit of the plaintiff's cheque for \$5,000 was made with the Imperial Bank of Canada to a special account. In the body of the cheque, in the plaintiff's writing, are the words "a/c option O.L.Co."

About the 19th October, Mr. Lawrence apparently made up his mind to attempt to force a sale upon Vigeon or the plaintiff, and so wrote to O. F. Rice, manager of the Imperial Bank at Toronto, advising that this money (\$5,000) was not to be paid out to any one without the authority and consent of the Ontario Lumber Company.

Mr. Lawrence asserted that Mr. Vigeon was acting for Mr. Sheppard and Mr. Tudhope. Mr. Vigeon denied that he had ever told Mr. Lawrence that he—Vigeon—was acting in this matter for either Sheppard or Tudhope. Vigeon told Mr. Lawrence that he was acting only for the plaintiff.

On the 20th October, Mr. Lawrence had prepared the document called "letter of authority." This is signed and sealed by the company, and is addressed to Vigeon and to Lawrence, authorising them to insert the name or names of persons for whom Vigeon assumed to act as purchasers. I cannot think that the writing of this letter to Mr. Rice and preparation of this authority were in accordance with the real transaction.

To me it appears as if these were written as preparing for a law-suit, not so much to compel a purchase, as to prevent the repayment of the \$5,000 to Vigeon or the plaintiff.

I may add that, in my opinion, the insertion in the so-called offer of Vigeon, of the clause in reference to the forfeit of \$5,000 paid under the Bicknell option, and which had then already been forfeited to the company, was entirely unnecessary. Giving credit to Vigeon, or assuming to do so, for this \$5,000, thus reducing the real price to \$345,000, was voluntary on the part of Mr. Lawrence. This was, I think, calculated to mislead the plaintiff and Vigeon.

If the writing in question does not bear the construction I have placed upon it, the plaintiff and Vigeon were, in my opinion, "in essential error" as to the import and effect of it. The plaintiff was induced to have it signed by Vigeon upon representations made by Lawrence acting for the company. The company seek to get the advantage of what Mr. Lawrence did.

If the plaintiff is not, by the terms of the writing itself, entitled to a return of his \$5,000, there should be a reformation of these writings to make them conform to the real transaction between the parties.