

project, he was not negotiating so much as a buyer as in organising a company, which was all he was interested in.

It may, therefore, be fairly taken as established that from the beginning Schacht intended that a company, which he would get up or assist in organising, would acquire the property, and not that he would do so personally. Consequently, the subsequent transaction was not a new departure in intent, and its development was not out of line with his original purpose.

The introduction of Schacht to Muntz on the 17th April, 1911, was by telephone, after the respondent had himself telephoned the latter. Muntz then wrote Schacht, and also inquired from the respondent as to the "understanding or agreement, if any, you have regarding this property, should it be sold."

The respondent saw Muntz, who had come to Hamilton, and explained to him about his commission, and at the latter's request wrote on the 27th April, 1911, that his arrangement was ten per cent., but that he was willing to accept half of that amount. At the trial his counsel agreed that he could not claim more. A reply (dated the 7th May, 1911) to this letter, states the understanding of Muntz to be that "any commission payable to you—the respondent—applies only in the event of the sale being made by you or through you." The negotiations between Schacht and Muntz proceeded thereafter by correspondence. Schacht thinks that they lasted for about thirty days, which, if accurate, would mean that they continued till about the middle of May. On the 7th July, 1911, the respondent wrote about other tentative proposals, and was advised in reply by Muntz that he was negotiating with an American automobile firm to manufacture their cars in Canada under a special arrangement.

In the meantime, and after the 17th April, 1911, Muntz says that letters passed between him and Schacht or between Innes, who was connected with the appellants, and Schacht, but that the matter dropped or remained dormant until Schacht's interest was revived by Innes opening up correspondence again with him in the early part of July, and then the plan decided upon was the formation of a new company. It is denied that the company referred to in the letter of the 7th July, above mentioned, was the Schacht Motor Car Company of Ohio, of which Schacht was president. Muntz further says that these later negotiations resulted in the formation of the Schacht Motor Car Company of Canada, and that the National Credit Company were brought into the matter because it was necessary to have some financial house to underwrite the company's stock,