

opinion that the amended Rule does not extend to such a case as this, but to cases where the right to relief over is given by law in consequence of a breach of contract between the third party and the defendant, either express or implied, or is a right given by statute.

Even assuming that the procedure is applicable to claims arising out of tort, how can it be said that the damages which the plaintiff has suffered by reason of the combined acts of the defendants and the third parties are the measure of damages the defendants would recover, if entitled to recover anything, from the third parties? And if the measure of damages does not correspond—and I do not see how it could in a case like this—*Miller v. Sarnia Gas Co.*, 2 O. L. R. 546, is a complete bar to the defendants' right to bring in the third parties. . . .

Appeal allowed and third party notice set aside, with costs.

TEETZEL, J., IN CHAMBERS.

MARCH 14TH, 1910.

RE GOOD AND JACOB Y. SHANTZ & SON CO. LIMITED.

*Company—Transfer of Shares—Refusal of Directors to Allow—Dominion Companies Acts, sec. 45—By-laws of Company—Approval of Directors.*

Motion by J. S. Good for a mandamus to compel the company to allow a transfer to the applicant of five shares of fully paid-up stock.

H. S. White and W. M. Cram, for the applicant.

E. E. A. DuVernet, K.C., and E. W. Clement, for the company.

TEETZEL, J.:—Upon the material it is quite clear that the shares in question are fully paid up, and that the applicant, J. S. Good, duly requested the transfer to be made upon the company's books of the shares in question, which stood in the name of Isaac Good, and that the directors of the company refused to allow it to be done after having been given reasonable time to comply with the request.

I would also find upon the material that the directors acted in good faith in refusing to allow the transfer to be made, and that they were honest in the position taken that it was not in the interests of the company to permit the applicant to become a shareholder.

The only question, therefore, is, whether, under the statute and by-laws of the company, the directors can be compelled to allow the transfer to be made upon the books of the company.