

owner of two dredging plants, one of which was at Fourchu, in Nova Scotia, and the other at Rondeau, on Lake Erie. The plaintiff instructed James S. Thompson, who was his representative in the railway operations in Nova Scotia, to examine these two plants and the assets and affairs of the Cape Breton Dredging Company, Limited, with a view to plaintiff investing money in the enterprise, and to report to him, he being then in England.

Thompson made the inspection and examined the books of the company, which were at the company's office, in Toronto. As a result, an agreement was entered into between the plaintiff and defendant, on the 26th April, 1909, the plaintiff having come from England to Toronto for that purpose. The general purport of this agreement was that defendant was to incorporate and organize a new company, to be known as The General Construction and Dredging Company, Limited, and to have transferred to it the assets, etc., of the Cape Breton Dredging Company, Limited, the plaintiff agreeing to invest a large amount of money in the enterprise, for which he was to receive certain shares of the capital stock of the new company.

This agreement was on the 1st May, 1909, cancelled by the parties and a new agreement of that date was substituted therefor.

The new agreement recited that the parties thereto proposed to enter into an agreement by which defendant was to organize a company for the purpose of carrying on dredging, etc., and that defendant was "to turn in to the said company fully paid and free from all encumbrances the entire assets of the Cape Breton Dredging Company, Limited," consisting of certain articles and dredging equipment and appliances (enumerated in the agreement) "and also all contracts for carrying on dredging for the Dominion Government," at the places therein named, "together with the entire goodwill of the Cape Breton Dredging Company, Limited," and, amongst other things, the parties agreed that defendant should forthwith organize the proposed company, for the purposes set forth, and should transfer or have transferred to the company the assets above mentioned.

The General Construction and Dredging Company, Limited, was incorporated on May 4th, 1909, and on May 11th, 1909, an agreement was entered into between the defendant and the Cape Breton Dredging Company, Limited,