

BRITTON, J.

FEBRUARY 21ST, 1914.

SKEANS v. HAMPTON.

Covenant—Restraint of Trade—Agreement between Master and Servant—Consideration—Servant Employed in Soliciting Orders for Master's Goods—Undertaking not to Engage in Similar Business within Limited Territory for Defined Period after Termination of Employment—Reasonableness—Validity—Breach—Injunction.

Action for an injunction to restrain the defendant from engaging in the business of selling teas or coffees within the city of Toronto, or within a radius of five miles adjacent thereto, for three years from the 27th December, 1913.

E. E. A. Du Vernet, K.C., and J. C. McRuer, for the plaintiff.
H. E. Irwin, K.C., for the defendant.

BRITTON, J.:—The plaintiff is a tea and coffee merchant, and his mode of doing business has been and is, to establish certain routes on or over which his agents canvass and take orders for and deliver tea and coffee.

Negotiations were entered upon for the employment by the plaintiff of the defendant to take charge of one or more of these routes, as the vendor of tea and coffee, at a salary of \$10 a week.

The defendant understood that, preliminary to entering upon his regular work, he required to be instructed; and, following and pursuant to negotiations, he entered the plaintiff's employ and served for some days. Before putting the defendant upon and in charge of a regular route, the plaintiff submitted a contract which he required the defendant to sign.

The defendant is not an illiterate man but quite the reverse, and, if he did not read the contract, or understand it fully, it was his own fault. No compulsion was used, no threat, no concealment, no attempt to overreach. The only words indicating haste were those that the plaintiff used when the defendant was reading the contract, viz., "Hurry up, the horse is waiting at the door." That was true; the defendant signed, and his signature was witnessed by one of his fellow-workmen.

I must accept the recitals in this agreement as true, and known by the defendant to be so, and these recitals set out that practically what the defendant agreed to in the negotiations is what is evidenced by the writing.