

Held, further, dismissing the point of law raised by plaintiff that the plea of the defendant B. that if any agreement was entered into between plaintiff and defendant it was entered into by B. as agent of the other defendant and not on his own account, and that at the time plaintiff knew that B. was so acting, was sufficiently pleaded, there being nothing to prevent the inference that the fact set forth in the allegation that B. entered into the agreement (in the letters and telegrams) solely as agent of the other defendant and not on his own behalf appeared on the face of the correspondence.

O'Connor and *Foley*, for appellant. *Allison*, contra.

Province of Manitoba.

KING'S BENCH.

Dubuc, J.]

[July 8.

FIRST NATIONAL BANK OF MINNEAPOLIS v. McLEAN.

Promissory note—Holder for value without notice—Delivery on condition of signature by another joint maker.

Plaintiffs sued as indorsees of one of four promissory notes made by defendant to McLaughlin Bros. as part payment of a stallion sold to defendants, thirteen, in number, and one Lee, under a syndicate agreement which had also been signed by Lee. When the agent of McLaughlin Bro. presented the notes to the defendants for signature, they refused at first to sign unless Lee would join with them. The agent told them that he had called to get Lee's signature, that he was not at home, but that his wife had said her husband would sign, and added that he would see that the notes would be signed by Lee, and that, if he refused, he would sue him to get his signature. On these representations the defendants signed the notes. Lee afterwards refused to sign. The defendants took delivery of the stallion, and had the use of it for one season and a half, after which it died. Plaintiffs gave evidence to satisfy the judge that they had discounted the note during its currency, and that they were holders for value without notice of any defect of any fraud or misrepresentation in the procuring of it. Defendants contended that the note was not complete when handed to the agent, that it was delivered to him conditionally on its being also signed by Lee as joint maker with them, and relied on the cases of