

The
Ontario Weekly Notes

Vol. VI.

TORONTO, APRIL 11, 1914.

No. 5

APPELLATE DIVISION.

MARCH 30TH, 1914.

*WASHBURN v. WRIGHT.

Master and Servant—Profit-sharing Enterprise—Statement of Master as to Servant's Share of Profits—Right to Impeach for Fraud—Master and Servant Act, 10 Edw. VII. ch. 73, sec. 3, sub-secs. 1(a), 2—Finding of Fraud by Trial Judge—Reversal on Appeal.

Appeal by the defendant from the judgment of LENNOX, J., 5 O.W.N. 515.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, and LEITCH, JJ.

R. McKay, K.C., for the appellant.

R. R. McKessock, K.C., for the plaintiff, the respondent.

The judgment of the Court was delivered by RIDDELL, J.:—
Benjamin Washburn had for a number of years carried on business in Sudbury as a merchant tailor, and he had the agency of the Semi-ready Tailoring Company. . . . The Semi-ready Company give exclusive "selling rights" to one "agent" only, in each town, but sell the goods out-and-out to the agent. . . . They made an arrangement with the defendant, Wright, to become their agent in Sudbury, advising him to have Washburn act as manager. An agreement was entered into by and between Washburn and Wright, whereby Wright employed Washburn as manager of Wright's business, known as "Washburn & Co.," and Wright agreed "to pay the employee one-half of the net profits of the said business, after deducting all rents, advertisements, and other expenses, the same to be divided

*To be reported in the Ontario Law Reports.

13—6 O.W.N.