

no concealed and arbitrary addition, but only the usual broker's commission, which in *Aston v. Kelsey* (*ante*), is treated as proper. But the non-disclosure, or rather the want of statement that a commission charge was being made by Lyman & Co., is of importance as shewing that the latter were treated by the appellants as their agents and not as the broker of the respondent.

If this be correct, the importance of the notice said to be given by the printed matter on the bought note disappears. But there is really nothing on the bought note to indicate that Lyman & Co. were other than the agents of the appellants. Their case is based upon the fact that Lyman & Co. bought these shares; and a condition printed upon the note of that purchase after the order is executed, and not assented to by the principal, ought not to be binding unless it is beyond question clear, and couched in such terms as to cast upon the principal the duty of immediate dissent. *Price v. Union Lighterage Co.*, [1903] 1 K. B. 750, 20 T. L. R. 177. There is not between a broker who knows all the facts and does not disclose them, and a customer, any duty similar to that stated in *Ewing v. Dominion Bank* (1904), 35 S. C. R. 133; nor after a contract is made and executed or partly executed can its effect be impaired by any such notice as is expressed on these bought notes.

The words "any kind of failure or default on the part of our correspondents" can hardly be said to include insolvency, and its consequences, but rather point to neglect in executing the order.

I think the appeal should be dismissed with costs.

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MASTER IN CHAMBERS.

DECEMBER 10TH, 1913.

McVEITY v. OTTAWA CITIZEN.

5 O. W. N. 469.

*Statement of Defence—Motion to Strike out Paragraphs—Libel Action—Public Comment—Not Properly Pleadable—Costs.*

HOLMESTED, K.C., struck out as irrelevant and embarrassing certain paragraphs in the statement of defence to a libel action alleging that certain alleged acts of the plaintiff had been the subject of public comment.

Motion by the plaintiff to strike out paragraph 5 of the defence as irrelevant and embarrassing.