

Mathers, J.] BENT v. ARROWHEAD LUMBER CO. [June 29.

Principal and agent—Commission on sale of land.

The defendant's president made an agreement with the plaintiff that, if he would procure a prospective purchaser for the timber limits owned by the defendants in British Columbia, the company would offer the property at \$550,000, and, in the event of a sale, would pay the plaintiff a commission of \$50,000, but any abatement of the named price down to \$500,000 was to come out of the plaintiff. The defendant's president had authority to make that bargain with the plaintiff.

The plaintiff found a purchaser to whom the property was subsequently sold without the plaintiff's knowledge or concurrence at the net price of \$500,000, and this sale was the result of the introduction of the property by the plaintiff to the purchaser. The trial judge also found that the defendant's president knew, when negotiating with the purchaser, that he was the plaintiff's purchaser.

Held, that the plaintiff was entitled to be remunerated for his services quantum meruit. *Lacotors v. Clough*, ante p. 503; *Pardee v. Ferguson*, 5 O.W.R. 698, 6 O.W.R. 810, and *Bridgman v. Hepburn*, 8 W.L.R. 28, distinguished.

Verdict for plaintiff for \$25,000 and costs.

Gall, for plaintiff. *Wilson and Robson*, for defendants.

Mathers, J.] FREDKIN v. GLINES. [June 29.

Growing wild hay, whether goods or lands—When purchaser is to cut and remove it—Sale of Goods Act.

The defendants sold to the plaintiff the wild hay growing on certain lands to be cut and removed by the plaintiff. He paid the price and proceeded to cut and remove the hay when he was stopped by a person rightfully entitled to it. The defendants then admitted they had made a mistake as to their right to sell the hay and offered to return the money to the plaintiff. He refused it and sued for damages for breach of an implied warranty of title. At the trial the defendants contended that the thing sold was an interest in land as to which there could be no implied warranty of title.