

had constructed. The Chancellor held that, upon the pleadings as framed, the plaintiff was not entitled to any relief—the root of the difficulty not having been touched. But he considered that the defendants had not done as much as they might fairly have done to remedy the condition of affairs in the plaintiff's locality. Action dismissed without costs. L. E. Dancey, for the plaintiff. M. G. Cameron, K.C., for the defendants.

McCAUSLAND v. CURRIE—DIVISIONAL COURT—DEC. 22.

Contract—Interest in Mining Claim—Payment of Sum out of Proceeds of Sale—Services—Construction of Contract—Reformation—Amendment—New Trial—Costs.]—Appeal by the plaintiff from the judgment of TEETZEL, J., dismissing the claim with costs. The action was upon an agreement between the parties, dated the 17th April, 1906, which, after reciting that the parties had been interested in prospecting the north-east 40 or 20 acres of lot 8 in the 5th concession of Coleman, and that a valuable discovery of mineral had been made thereon, and a claim staked and recorded in the name of the defendant, proceeded: "Now in consideration of services rendered in developing the claim," the defendant "agrees to hold an undivided twentieth interest in the said claim for" the plaintiff, "and further agrees to pay to the" plaintiff, "as soon as the said discovery is passed by the official Mining Inspector . . . And it is further agreed that should the said property be sold before the said property is passed, the sum of \$500 will be paid out of the proceeds of the sale to" the plaintiff. The plaintiff sued for \$500. The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ. RIDDELL, J., said that, in the event which had happened, the defendant had sold the "said property" to one Lindsey, along with other property, and was to receive \$750 for the whole. The learned Judge did not think it open to the defendant to say, by such evidence as was now available, that the \$750 was not, at least in part, proceeds of this sale; and in this view the action was wrongly dismissed. But the defendant says that the document, so interpreted, does not express the meaning of the parties—and there seem to be many things which indicate that this may possibly be so. If the defendant pays the costs of this