

plaintiffs. The circumstances were not such as to put the defendant upon inquiry as to whether or not the plaintiffs had sent Forrest to him.

*Held*, that the plaintiffs were not entitled to recover any commission on the sale, either under their contract or for services rendered by way of quantum meruit.

*Cathcart v. Bacon*, 49 N.W. Rep. 331: *Quist v. Goodfellow*, 110 N.W. Rep. 65, followed; *Mansell v. Clements*, L.R. 9 C.P. 139, and *Green v. Bartlett*, 14 C.B.N.S. 681, distinguished.

*Hull and McAllister*, for plaintiffs. *Metcalfe and Stacpoole*, for defendant.

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NOTE:—If the facts are correctly stated, and we are assured they are, we doubt whether the above decision states the law as it stands at present. With due deference we would suggest that the plaintiff would seem to have done all that he was required to do to earn his commission, and, if so, why should he not have it? Surely, at least, he should be paid for his services on a quantum meruit. We publish the note, however, as the case will doubtless be followed in Manitoba, and has, we understand, since its delivery been referred to and distinguished, but not dissented from, in a case subsequently decided.—Ed. C.L.J.

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Full Court.]

TURNER v. TYMCHORAK.

[June 8.

*Interpleader—Evidence—Proof of judgment at trial of interpleader issue—Attaching order.*

When a third person claims goods seized by the sheriff under an attaching order and the sheriff applies for an interpleader order, any objection by the claimant as to the want or insufficiency of the material on which the attaching order was obtained should be raised in answer to the sheriff's application, and it will be too late to raise such objection at the trial of the interpleader issue.

It is not necessary at the trial of such an interpleader issue for the plaintiff, although he is plaintiff in the issue, to prove the defendant's indebtedness, at least in the absence of evidence on the part of the claimant to shew that it did not exist. *Holden v. Langley*, 11 U.C.C.P. 407, and *Ripstein v. British Canadian*, 7 M.R. 119, followed.