

of the lessor, and the property passed to her representatives unrestricted thereby: *Hindle v. Pollitt*, 6 M. & W. 629; *Elliott v. Elliott*, 20 O. R. 134; *Snetsinger v. Leitch*, 32 O. R. 440; *Leigh v. Lillie*, 6 H. & N. 165.

Action dismissed with costs. Judgment for defendants on counterclaim for \$96 with costs.

FERGUSON, J.

JULY 23RD, 1903.

TRIAL.

GODERICH ELEVATOR CO. v. DOMINION ELEVATOR CO.

Principal and Agent—Contract Made by Agent—Scope of Authority—Principal not Bound.

Action to recover \$2,250, the price of certain storage space in plaintiff's elevator at Goderich alleged to have been contracted for but not used by defendants.

FERGUSON, J., held, upon the correspondence and evidence, that there was not a completed contract for the space in plaintiff's elevator at the rates of storage charged by plaintiffs; that one Cavanagh, with whom plaintiffs corresponded, was not a general agent of defendants, but only a special agent having no authority by implication, but only such authority as was directly given him by defendants; and that defendants were not bound by Cavanagh's acceptance of plaintiffs' rates, and would not have been bound even if his conduct had been free and voluntary and not induced by the promise of plaintiffs to protect him if he accepted. Lest it should be considered of importance hereafter, the learned Judge found upon the evidence that plaintiffs did reserve space for 150,000 bushels in their elevator, and that this space remained unoccupied during the period for which plaintiffs sought to recover, although plaintiffs made reasonable efforts to relet it to others.

Action dismissed with costs.

FERGUSON, J.

JULY 23RD, 1903.

TRIAL.

CHARLTON v. BROOKS.

Gift—Donatio Mortis Causa—Evidence—Cash and Notes—Delivery of Key of Box—Counterclaim—Costs.

Action by the administrators of the estate of the late William Charlton to recover certain moneys and notes from the defendant, the daughter of the deceased. She claimed them as the subject of a donatio mortis causa.

J. M. Glenn, K. C., and C. St. Clair Leitch, Dutton, for plaintiffs.
Talbot Macbeth, K. C., for defendant.