

Aid Society of St. Vincent de Paul; the Boys' Home; the Protestant Orphans' Home; the Sacred Heart Orphanage; and the Home for Incurable Children. The societies to pay their own costs. J. E. Jones, for the executors. W. B. Raymond, F. C. L. Jones, J. M. Ferguson, T. L. Monahan, and S. S. Mills, for various societies.

RE LANKIN—MASTER IN CHAMBERS—FEB. 5.

Interpleader — Application by Stakeholder — Rival Claimants for Commission on Sale of Land—Want of Neutrality.—Application by one Lankin for an interpleader order in respect of an agent's commission claimed by Winyard Cooch & Co. and by J. B. Levy & Co. The affidavit of the applicant stated that on the 3rd December, 1912, he agreed to sell some land in Toronto, for \$38,000; that this agreement was brought to him by Winyard Cooch & Co., to whom he agreed to pay a commission of two and a half per cent., if and when the sale was completed; but that subsequently, and before the sale was completed, J. B. Levy & Co. notified him that they were the agents who had really brought about the sale, and were, therefore, entitled to the commission of \$950. The applicant admitted that he had had some conversation in September with J. B. Levy & Co., at their office, in reference to a proposed buyer—some time before Winyard Cooch & Co. came into the matter. On the 11th January, 1913, the sale was completed. The Master said that the judgment in *Barber v. Royal Loan and Savings Co.*, 4 O.W.N. 91 (which was affirmed by Riddell, J., on the 11th October last), shewed that the application must be refused, on the applicant's admission of his promise to pay Winyard Cooch & Co. It might possibly be open to the applicant to defeat the claim of Winyard Cooch & Co., on the ground of misrepresentation as to their services; or that of J. B. Levy & Co., on the ground of no retainer by him. But it might also be, as pointed out in the *Barber* case and authorities there cited, that he was liable to both. Before committing himself to Winyard Cooch & Co., the applicant should have taken an indemnity from them against any claim from J. B. Levy & Co., as was done in a case recently in Chambers. Motion dismissed with costs to Winyard Cooch & Co., fixed at \$20, unless the applicant wished a taxation. J. B. Levy & Co. did not ask for costs. K. F. Mackenzie, for the applicant. Grayson Smith, for Winyard Cooch & Co. R. H. Greer, for J. B. Levy & Co.