

ity was not intended to delay realisation, on the 19th the bank solicitor wrote: "The bank insist that Clarkson should sell that Crown Reserve stock, and, unless he places some reasonable price on it now, they will sell it themselves. I think he ought to let it go at the present price, 57. I am not sure whether this can be got or not; but, in any event, the order must be given at once, otherwise we sell without any notice." Clarkson replied to this letter on the 21st: "I expect to be in Toronto the latter part of this week or the first of next and will take the matter up with you personally. In the meantime, however, you can sell Crown Reserve at 57. I think it advisable to sell, and this will be your authority for so doing."

It is contended that this authority is limited by the words "in the meantime," and that the only authority was to sell at 57 at any time before the interview promised. I do not agree with this. The bank had on foot negotiations touching many matters. The interview would deal with them all—"in the meantime" i.e., before all these questions are arranged, Clarkson gives the consent to realise on this security, as he agrees with the bank that it is advisable to sell. This view is apparently Clarkson's own, as on the 9th July the bank wrote, saying that a sale would probably be made that day at 53, the 57 being reduced by a dividend of 4 per cent. On the 10th, Clarkson writes: "I think it would be a great mistake to sell this for less than the price given you some time ago, namely, 57 cents. Certainly, when I gave you this letter it was not with the intention that the dividend was to reduce the selling price." No statement is made that the authority to sell had expired. The sale having been made in the meantime, this letter cannot be relied upon as an estoppel; but it is evidence that the letter was intended to be an absolute authority to sell at 57. The same remark applies to the letter of the 16th January. When told that the stock had been sold, Clarkson writes, "I think it a great mistake to sell the Crown Reserve at 53"—not that the sale was without authority.

The letter authorised a sale at 57, and not at 53 and 53½, and I think the bank should give credit for the difference.

Subject to this variation, the appeal should be dismissed with costs.

The issue as between the defendant and third party must be tried, as there seems to have been a misunderstanding.