

THE  
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FALCONBRIDGE, C.J.

JANUARY 30TH, 1903.

TRIAL.

ADAMS v. COX.

*Promissory Notes—Action on—Defences to—Interest of Indorser in Shares Standing in Name of Holder—Termination of Interest—Inducements to Makers of Notes—Agency of Indorser for Holder.*

Action upon three promissory notes made by defendants Alice Cox and Evelyn Cox, and indorsed by defendant E. S. Cox, two for \$2,100 each and one for \$2,722.50.

G. F. Shepley, K.C., and J. J. Maclellan, for plaintiff.

E. F. B. Johnston, K.C., for defendant E. S. Cox.

S. H. Blake, K.C., for defendant Evelyn Cox.

W. Laidlaw, K.C., for defendant Alice Cox.

FALCONBRIDGE, C.J., allowed the amendments proposed at the trial and dealt with the case on the basis of the record thus constituted. The defence which was common to all the defendants was that the real plaintiff (one Walmsley) and the defendant E. S. Cox were and are jointly interested in 1,980 shares of Crow's Nest C. and D. Co. (and in 593 shares increment thereof) and that the present value of the interest of defendant E. S. Cox therein is more than sufficient to pay off the whole amount of the notes in question. It was not material to ascertain the exact relations of Cox and Walmsley in the beginning, for, assuming that the transaction commenced as a partnership one, it was manifest that (the stock falling in the market), Cox being unable or unwilling to bear any share of the heavy burden of carrying it, Walmsley having to put up other securities of his own, and being also pressed by his bank to pay off or materially reduce the indebtedness, Cox's interest, of whatever nature it may have originally been, was finally and definitely closed out.