

## REPORTS AND NOTES OF CASES

## Province of Ontario.

## HIGH COURT OF JUSTICE.

Divl. Court.]

PETRIE v. MACHAN.

[Oct. 25, 1897.

*Division Court—Jurisdiction—Contract—Fixed amount—Interest.*

Defendant by a contract in writing signed by him directed to the plaintiff instructed the latter to sell certain saw mill machinery as follows: "Please enter in your descriptive catalogue of machinery for sale the . . . to net me \$1,000. I hereby authorize you to sell (setting out terms). I retain to myself the right of selling or of exchanging or of otherwise disposing of said goods in whole or in part without the assistance of (plaintiff) but agree in such case to pay you ten per cent. commission on the above amount . . . same commission to apply in case of withdrawal of offer." Defendant gave away the machinery to his brother who afterwards without the assistance of the plaintiff sold it for \$350.

*Held*, that plaintiff was entitled to recover \$100 as commission and that his claim was within the jurisdiction of the Division Court. Judgment of Division Court reversed.

*R. McKay*, for appeal. *Aylesworth*, Q. C., contra.

Boyd, C.]

PALMER v. MAIL PRINTING CO.

[Nov. 1, 1897.

*Lease—Agreement as to vacancy—Condition—Breach—Avoidance of lease—Execution—Corporate seal.*

In a lease was a provision that "In case the said premises . . . become and remain vacant and unoccupied for the period of ten days . . . without the written consent of the lessors this lease shall cease and be void, and the term hereby created expire and be at an end . . . and the proportionate part of the current rent shall thereupon become immediately due and payable and the lessor may re-enter and take possession" . . .

*Held*, that the term did not cease by the lessee going out and leaving the premises vacant for ten days, but that the agreement embodied in the lease was a subsequent condition, a breach of which could only avoid the lease at the instance of the lessors.

*Semble*. A lease by a corporation is validly executed if the corporate seal is affixed by the proper custodian.

*E. B. Ryckman*, for plaintiff. *J. B. Clarke*, Q. C., for company.