

There will be judgment for the plaintiff against the defendant Abraham for \$2,500 with costs. I think it is the duty of a jobbing contractor, such as Fisher is, to know something of the conditions under which his men are working. The action as against Fisher will be dismissed without costs.

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HON. MR. JUSTICE KELLY.

MAY 16TH, 1914.

## LOVELL v. PEARSON.

6 O. W. N. 357.

*Covenant—Restraint of Trade—Agreement between Master and Servant—Sale of Goods—Prohibition Extending to Whole Dominion of Canada—Interim Injunction.*

KELLY, J., refused an injunction until trial to restrain an ex-servant of plaintiffs from soliciting orders for or engaging in any business within Canada similar to the plaintiff's, holding that the effect would be to deprive defendant of his earning power, upon which he chiefly relied as a means of earning a livelihood and that this protection was not required by plaintiffs.

*Allen Mfg. Co. v. Murphy*, 23 O. L. R. 467 followed.

Motion by the plaintiffs for an order restraining the defendant until the trial of the action from soliciting orders for or engaging in or being interested in any business within the Dominion of Canada similar to that carried on by the plaintiffs, contrary to the defendant's covenant with the plaintiffs, as alleged.

The motion was heard by HON. MR. JUSTICE KELLY, in the Weekly Court at Toronto.

R. G. Agnew, for plaintiffs.

J. E. Jones, for defendants.

HON. MR. JUSTICE KELLY:—Defendant, who prior to January 3rd, 1914, had been in plaintiffs' employ as a travelling salesman, on that day entered into a written agreement with plaintiffs to serve for one year from that date in the capacity of a salesman of stationery merchandise. The agreement, which is in the terms of a printed form in use by plaintiffs, contains provisions of a somewhat exacting character, including one that the defendant "shall not during the continuation of his employment with the employer or within the space of 12 months after its termination, how-