

THE  
ONTARIO WEEKLY REPORTER

VOL. 23 TORONTO, NOVEMBER 21, 1912. No. 6

HON. MR. JUSTICE RIDDELL. NOVEMBER 4TH, 1912.

TORONTO NON-JURY.

LONG v. SMILEY.

4 O. W. N. 229.

*Brokers—Conversion of Mining Shares—Two County Court Actions and One High Court Action—By Consent, Tried Together in High Court—Method of Dealing with Stock—No Evidence of Conversion.*

Three actions for the return of moneys entrusted by plaintiff to defendants, brokers, for the purchase of mining stock, which plaintiff claimed had never been so employed. The actions were on similar facts for varying amounts, two being brought in the County Court and one in the High Court, and were tried together in the High Court, by consent. Plaintiff's instructions to the brokers were to purchase the stocks which were chiefly non-dividend paying, and to hold them in a form in which profits could be readily realised in case of enhancement in price. Defendants purchased the stocks in question, but did not allot them to their particular customers, keeping the stock of the one kind of all their customers in one envelope, to draw from when any customer sold.

RIDDELL, J., held, that this method of dealing with the stock was the best calculated to carry out plaintiff's wishes, and that, on the facts, there had been no conversion.

*McCroy v. Eastman*, 10 Mod. 499; *Dos Passo*, 2nd ed., pp. 255 *sqq.*, referred to.

Actions dismissed without costs.

Two County Court actions and one High Court action brought to recover moneys intrusted by two sisters to a firm of brokers to be invested in mining shares; tried together in the High Court by consent.

A. J. Russell Snow, K.C., for the plaintiffs.

T. N. Phelan, for the defendants.

HON. MR. JUSTICE RIDDELL:—Two sisters Georgina and Kate Long, the former a nurse and the latter a saleswoman, lived together, except when the nurse was in em-