

Statement of defence — *Motion to strike out as irregular* — *Specially endorsed writ* — *Appearance entered and affidavit filed* — *No notice of trial by plaintiff* — *Defence delivered after lapse of ten days from appearance* — *Not irregular* — *Costs* — *Con. Rules 56, 112, 124*] — *Holmested, K.C.*, held, that a statement of defence filed after the time limited by *Con. Rule 112* is not only not a nullity but is not irregular. — *Smith v. Walker*, 5 O. W. N. 410, considered. *Munn v. Young* (1913), 25 O. W. R. 447; 5 O. W. N. 426.

Statement of defence — *Motion to strike out paragraphs* — *Libel action* — *Public comment* — *Not properly pleadable* — *Costs*] — *Holmested, K.C.*, struck out as irrelevant and embarrassing certain paragraphs in the statement of defence to a libel action alleging that certain alleged acts of the plaintiff had been the subject of public comment. *McVeity v. Ottawa Citizen* (1913), 25 O. W. R. 505; 5 O. W. N. 469.

Statement of defence — *Motion to strike out paragraphs as embarrassing* — *Title to land* — *Denial of title of registered owner* — *Res judicata* — *Importance of matters raised* — *Refusal to determine on interlocutory motion*] — *Britton, J.*, refused to strike out certain paragraphs of a statement of defence, which raised matters which were not properly triable upon an interlocutory motion. — *Judgment of Master-in-Chambers reversed. Toronto Developments Ltd. v. Kennedy* (1913), 25 O. W. R. 863; 5 O. W. N. 922.

Statement of defence — *Necessity for in addition to affidavit to specially endorsed writ* — *Time for delivery* — *Default* — *Right to move for judgment* — *Con. Rules 56, 112*] — *Kelly, J.*, held, that even after a defendant has filed an affidavit in answer to a specially endorsed writ under *Con. Rule 56*, if the plaintiff makes no election under such rule the defendant must deliver a defence under *Con. Rule 112* within ten days after appearance, failing which plaintiff is at liberty to move for judgment as if no defence filed. *Smith v. Walker* (1913), 25 O. W. R. 481; 5 O. W. N. 410.

PRINCIPAL AND AGENT.

Accounting — *General insurance agency* — *Substitution of individual for company* — *Liability of individual thereafter* — *Assumption of outstanding liabil-*

ity — *Evidence* — *Statute of Frauds* — *Appeal*] — *Sup. Ct. Ont. (1st App. Div.)*, held, that upon the evidence the appellant had been substituted as general agent for the respondent insurance company in 1907, in place of a company in which he was the largest stockholder, and as such was liable to account for the agency business transacted thereafter, but that the evidence did not establish that he assumed any prior liabilities of the company in connection with such agency, and the requirements of the *Statute of Frauds* with regard to the proof of such assumption had in any case not been met. — *Judgment of Latchford, J.*, at trial, varied; no costs of appeal. *Lloyds Plate Glass Insurance Co. v. Eastmure* (1913), 25 O. W. R. 406; 5 O. W. N. 498.

Action for commission — *Sale of mining lands* — *Evidence* — *Findings of trial Judge* — *Dismissal of action*] — *Latchford, J.*, dismissed an action for commission upon the sale of certain mining lands, holding that plaintiff had already received all the commission to which he was entitled under the agreement between himself and the defendants. *Connell v. Bucknall* (1913), 25 O. W. R. 534; 5 O. W. N. 610.

Secret profit — *Purchase of lands* — *Evidence* — *Fraud* — *Account* — *Counterclaim* — *Costs*] — *Latchford, J.*, held, that an agent who purchased certain lands from a syndicate at \$400 per acre and resold them to his principal at \$450 per acre, representing to the latter that \$450 per acre was the true purchase price, was liable to his principal for the secret profit so made by him. *Bell v. Coleridge* (1913), 25 O. W. R. 575; 5 O. W. N. 655.

PROCESS.

Service out of jurisdiction — *Action properly brought against one defendant in jurisdiction* — *Con. Rules 25, 48* — *Conditional appearance* — *Refusal to allow substitution of, for ordinary appearance entered through alleged inadvertence*] — *Latchford, J.*, refused to grant defendants, they being resident out of the jurisdiction, have to substitute conditional appearances under *Rule 48* for the ordinary appearances entered by them to concurrent writs served out of the jurisdiction, where he was satisfied that the Courts had jurisdiction over such defendants. — *Standard Construction Co. v. Wallberg*, 20 O. L. R. 646, followed. — *Judgment of Master-in-Cham-*