

Held on appeal that a notice of defence need not be as full as a plea, and that any notice which substantially advised the plaintiff of the defence to be set up was sufficient, so long as it was not calculated to mislead. But see *Dowling v. Tripp*, 2 Allen, 520; *Wilson v. Street*, 2 All., 629; *LeGal v. Duffy*, 3 All., 57. Appeal allowed with costs.

W. VanWart, Q.C., for appellant. *J. D. Phinney*, Q.C., contra.

Nisi Prius, McLeod, J.]

LEWIS v. SCOTT.

[June 21.

Arbitration—Slander—60 Vict., c. 24, s. 253.

Action of slander referred to arbitration by Nisi Prius order under s. 253 of 60 Vict., c. 24, citing *Linch v. Dacy*, 1 Keb. 848.

W. H. Trueman, for plaintiff. *H. A. McKeown*, for defendant.

Province of Manitoba.

QUEEN'S BENCH.

Full Court.]

DOUGLAS v. CROSS.

[June 12.

Appeal from County Court—Review of evidence on appeal from decision of County Court Judge on summons to vary judgment or for a new trial under s. 309 of the County Courts Act, R.S.M. c. 33—Agent's commission on sale of land—Recovery of commission by another plaintiff in respect of same sale.

The plaintiff recovered judgment in the County Court for commission on the sale of a parcel of land for defendant at the full amount of percentage usually allowed.

Defendant applied under s. 309 of the County Courts Act, R.S.M., c. 33, for a new trial or to reverse or to vary the judgment, relying on the fact that another real estate agent had recovered a verdict against him for one-half the usual commission in respect of the same sale, and appealed to the Full Court from the County Court Judge's order dismissing that application.

Held, following *Smith v. Smyth*, 9 M.R. 569, that on such an appeal the Court cannot review the original decision on the facts in the same manner as it would do in an appeal direct from the original verdict under s. 315 of the Act as re-enacted by 59 Vict., c. 3, s. 2; but can only consider whether the decision of the County Court Judge on the application to him under s. 309 was erroneous or not, and that the original verdict should not be disturbed unless it appeared to be unreasonable or unjust, or a perusal of the evidence showed that the trial judge must, in arriving at his decision,