

indicated that the giving of the note in question (which was produced) was quite as consistent with a specific loan made by Lowell to Hiram as it was with payment on the mortgage. The plaintiffs' counsel had not pointed out specifically what he relied upon as corroboration; and the learned Chief Justice failed to find any such corroboration as the statute requires, either by the evidence of a witness or by the force of circumstances.

Action dismissed, and with costs, if exacted.

BARRETT BROTHERS V. BANK OF TORONTO—CLUTE, J.—AUG. 22.

Principal and Agent—Sum Lodged with Bank to be Paid over upon Instructions—Authority of Agent—Payment—Ratification—Estoppel.—Action to recover \$7,000 and interest. The plaintiffs alleged that the \$7,000 was paid by them to the defendants, as the plaintiffs' agents, to be expended for a specific purpose, and that the authority so to expend it was cancelled before it was expended. The action was tried without a jury at Ottawa and Toronto. The plaintiffs were (as members of a syndicate) interested in the purchase of a lease of or interest in oil-lands in the Province of Alberta. The plaintiffs paid \$7,000 into a branch bank of the defendants, to be transferred to their Calgary branch and paid out in accordance with instructions. The plaintiffs alleged that their instructions to the defendants were specific to pay over the money upon the receipt of an assignment of the oil-lease which they were negotiating for; and that the payment made by the defendants was unauthorised, an assignment of the lease not having been obtained. CLUTE, J., reviewed the evidence in a written judgment, and said that, irrespective of the merits, the action was defective for want of parties—all the members of the syndicate should be before the Court. Apart from the question of parties, the position of the plaintiffs was not sustainable. One Cullen was their agent to close the transaction. He did not get a formal lease, as was probably expected by the plaintiffs when they entered into the transaction; but the plaintiffs had knowledge, before the transaction was closed, that application had been made for certain lands; and what was done subsequently in the way of organising a company, transferring the property, issuing a prospectus, and allotting shares, was a ratification of all that Cullen had done; and the plaintiffs were estopped by their acts from repudiating the transaction which