

## BLAIR v. BRUCE—DIVISIONAL COURT.—DEC. 13.

*Contract—Action to Recover Money Paid—Evidence—Failure to Establish Contractual Relation between Parties.*]—Appeal by the defendant from the judgment of the Judge of the District Court of Nipissing in favour of the plaintiff in an action to recover \$1,100, alleged to have been paid by the plaintiff to the defendant for a mining claim. LATCHFORD, J., in a written judgment, expressed the opinion that the findings of the District Court Judge were based upon a misconception of the true nature of the transaction between one Jones, who acted for the plaintiff in purchasing the claim, and one Pullis, who was the actual vendor. He said that, apart from the form of the transfer, there was never any contractual relation whatever between the defendant and the plaintiff represented by Jones. The real transaction was a sale to Jones by Pullis, at a profit of \$200, of the option which Pullis held from the defendant as attorney for one McCarthy. Apart from the suggestive questions of the plaintiff's counsel to his own witness, and the witness's affirmative answers—which could carry but slight weight in any case, and none where, as here, directly contradicted—there was nothing to shew agency on the part of Pullis, or collusion between Pullis and the defendant, or bad faith or misconduct on the defendant's part in staking the claim. FALCONBRIDGE, C.J.K.B., and BRITTON, J., agreed that, upon the evidence, the appeal should be allowed with costs and the action dismissed with costs; and that was the order of the Court. W. M. Douglas, K.C., for the defendant. R. McKay, K.C., for the plaintiff.

## LAISTER v. CRAWFORD—MASTER IN CHAMBERS.—DEC. 15.

*Parties—Joinder of Plaintiffs—Separate Causes of Action—Trespass to Land—Assault—Election—Pleading—Special Damage.*]—Motion by the defendants (before pleading) for an order directing an amendment of the statement of claim because it is as it stands embarrassing, or requiring the plaintiffs to elect which claim they will proceed on in the action. The action was brought by a mother and daughter against the next-door neighbour of the mother, and against a contractor employed by the latter to do repairs to her house, for trespassing upon the land and premises of the elder plaintiff (the mother), and for assaulting the other plaintiff (the daughter) whereby she became ill, and her mother incurred expense for medical attendance, etc., and was deprived of the daughter's services. The Master said