

HON. MR. JUSTICE LENNOX.

JUNE 6TH, 1913.

CHAMBERS.

FRITZ v. JELFS AND GREEN.

4 O. W. N. 1408.

Pleading—Statement of Defence—Action for Assault and Forcible Ejection from Premises—Defence of Police Constable—Alleged Instructions from Superior — Plaintiff Alleged to have been Drunk and Disorderly—Failure of Motion.

MASTER-IN-CHAMBERS, 24 O. W. R. 643; 4 O. W. N. 1371 in an action against a police officer for forcibly ejecting plaintiff from certain premises without authority, refused to strike out of the statement of defence an allegation that defendant was acting *bona fide* under the instructions of his superior officer and that plaintiff was at the time drunk and disorderly.

LENNOX, J., affirmed above order.

An appeal by the plaintiff from an order of the MASTER-IN-CHAMBERS, dated 29th May, 1913, 24 O. W. R. 643.

L. E. Awrey, for the plaintiff.

H. E. Rose, K.C., for the defendant Green.

HON. MR. JUSTICE LENNOX, dismissed the appeal; costs in the cause.

SUPREME COURT OF ONTARIO.

2ND APPELLATE DIVISION.

JUNE 11TH, 1913.

RE EMPIRE ACCIDENT & SURETY CO.
FAILL'S CASE.

4 O. W. N. 1411.

Company—Winding-up—Contributory — Evidence—Onus—Estoppel.

MEREDITH, C.J.C.P. (24 O. W. R. 208; 4 O. W. N. 926) dismissed with costs the appeal of an alleged contributory from the decision of the Official Referee, holding that he was a shareholder of the company upon the ground that the evidence shewed that the appellants had some two years after the date of allotment assumed to deal with the shares allotted to him as a shareholder, he having attempted to transfer the same and given proxies in respect thereof.

SUP. CT. ONT. (2nd App. Div.) varied above order by allowing appellant credit for dividends.

An appeal by Alexander Faill from an order of HON. R. M. MEREDITH, C.J.C.P., 24 O. W. R. 208; 4 O. W. N. 926.