

The motion is dismissed; there will be no order as to costs of it; the costs of the action have not been appreciably increased by it; and the point is a new one; and one which would be one of much moment if effect had to be given to it.

HON. MR. JUSTICE LENNOX.

OCTOBER 13TH, 1913.

CLARKE v. ROBINET & HEALEY.

5 O. W. N. 143.

*Charge on Land—Agreement—Duration—Payment of Claims—
Discharge of Land—Payment into Court—Costs.*

Action for a declaration that the plaintiff's farm is free from any claim or claims by the defendants or either of them, under what was called "the syndicate agreement" or otherwise. No time was fixed for the duration of the agreement, which was made in September, 1909.

LENNOX, J., *held*, that on return of money paid him, plaintiff was entitled to relief asked, and to costs of action, he having duly tendered the money to defendants.

Wigle, K.C., and Rodd, for the plaintiff.

Mr. Davis, for the defendant.

HON. MR. JUSTICE LENNOX:—What is called the syndicate agreement was entered into to enable the plaintiff through the personal efforts of the defendants and a Mr. Parker, to sell his farm as building lots; the parties joining in this undertaking to share in the receipts after the sales had netted the plaintiff \$10,000. This arrangement came to in September, 1909. Four years have elapsed. During all this time the farm has been dotted with surveyor's stakes and there is no evidence that any of the members of this syndicate have done anything to bring about sales. No time was fixed for the duration of this arrangement—probably because all parties anticipated the almost immediate disposal of the property—and it can hardly be argued that it was, or should be allowed to, endure forever. Equally it can hardly be said that the defendants have not been allowed the advantage of the agreement for a reasonable time. The agreement has been registered and, whether it creates an interest in the land or not, it at least constitutes a cloud upon the plaintiff's title.