

Full Court.]

BLACKWOOD v. PERCIVAL.

[July 5.

*Principal and surety—Release of surety by giving time to principal debtor—
King's Bench Act, 58 and 59 Vict., c. 6, s. 39, sub-s. 14.*

Appeal from decision of BAIN, J., noted ante, p. 475, dismissed with costs.

Wilson and Elliot, for plaintiff. *Howell*, K.C., for defendant.

Richards, J.)
Full Court.)

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NORTHERN ELEVATOR CO. v. McLENNAN.

Arbitration—Agreement to refer disputes to arbitration—Application to stay proceedings in action—Time when application must be made in Manitoba.

The plaintiff's action was in respect of matters arising under the provisions of an instrument in writing which contained an agreement that differences arising under it should be referred to arbitration. After filing a statement of defence to the plaintiff's statement of claim, defendant applied, under section 11 of the C.L.P. Act, 1854, for an order staying all proceedings in the action on the ground that the partners had agreed to refer all such matters to arbitration. That statute required that such an application should be made "after appearance and before plea or answer."

Under King's Bench Act, 58 & 59 Vict., c. 6, the writ of summons and appearance were done away with.

Held, that, under the practice now in force in Manitoba, such an application must be made before the filing of a statement of defence.

Application dismissed with costs.

An appeal to the Full Court against this decision was subsequently dismissed with costs.

Ewart, K.C., for plaintiff. *Aikins*, K.C., and *Taylor*, for defendant.

UNITED STATES DECISIONS.

Solicitor and client:—The liability of attorneys to clients for mistake is denied in *Hill v. Mynatt* (Tenn.), 52 L.R.A. 883, where the mistake consists of an error of judgment on a question of law as to which eminent attorneys might well be in doubt. With this case there is a note reviewing the authorities on the liability of attorney to client for mistake.