

can have no effect as to what was done prior to its date—and, therefore, cannot operate as a stay of proceedings in this action.

I find that there were no false or fraudulent representations in this matter by any of the defendants—but what has been done has been done in good faith.

The action will be dismissed with costs.

WESTBROOK v. KERNAHAN—LENNOX, J.—DEC. 7.

Principal and Agent—Agent's Commission on Sale of Block of Shares in Commercial Company—Evidence—Employment of Agent—Sale Effected through Instrumentality of Agent—Quantum of Commission..]—Action against the executors and trustees under the will of Widmer Hawke, deceased, to recover \$95,000 as commission on a sale to Charles Millar and Cawthra Mulock for \$950,000 of 12,000 shares of preferred and common stock of the O'Keefe Brewery Limited, the property of the defendants as executors and trustees. It was not alleged that there was an agreement as to the rate of commission or amount of compensation to be paid to the plaintiff or that the sale was directly effected by any act of his. The bargain or understanding upon which the plaintiff based his right to recover was with the defendant Kernahan, who was the active executor in negotiating and carrying out the sale. The defendants denied the employment of the plaintiff and denied that he was directly or indirectly the means of effecting the sale to Millar and Mulock. The learned Judge, after discussing the evidence in a written opinion, finds both these issues in favour of the plaintiff, and gives judgment for the plaintiff for \$15,000 with costs. M. K. Cowan, K.C., for the plaintiff. I. F. Hellmuth, K.C., for the defendants.

CURRY v. MATTAIR—LENNOX, J.—DEC. 7.

Vendor and Purchaser—Sale of Mining Claims—Guaranty of Title—Failure to Make Title—Recovery of Purchase-money..]—Action to recover moneys paid by the plaintiffs to the defendant as the purchase-price of two mining claims, to which the defendant failed to make title, the defendant having guaranteed the title. LENNOX, J., was of opinion that the plaintiffs had not made out a right to recover in respect of mining claim M.R.