

The plaintiffs say that their employment began 27th April; the defendant the 20th April, that it was to last for 10 days is agreed upon.

Then we find that the plaintiffs advertised in the *Toronto Star* this property for sale—on the 26th April—representing that they had exclusive sale of it—we require some very clear explanation before coming to the conclusion that they had no authority to deal with the property till the next day. To my mind the attempted explanations do not explain—and they are not consistent. Currie says: “We had a right to because we had a similar property running at the same time; that did not have any reference to Mr. Hoskin’s property . . . not particularly.” Then on being pressed and shewn that this property must be referred to he says: “Supposing I did; probably my partner did on his own accord; we almost thought we had it.” His partner says that this property was what was meant, that it was advertised “just to draw the people’s attention” before the defendant had authorised the plaintiffs to sell or offer the property for sale—that when they advertised they did not know what the plaintiff was asking for it, “nothing definite about prices,” they did not know what the defendant was going to ask for the property.

The office diary is produced by the plaintiff to support their story—and, of course, wrongly permitted to be so used. Evidence of a more self-serving character cannot be thought of; and there was no pretence that the book was needed to refresh the memory of the witnesses. But even with the book we have the evidence of the plaintiff Sterry, that entries were made by him therein when he knew that he meant to go to law, that he took the book to his solicitor for that purpose and he adds: “When we were going over it, he (*i.e.*, the solicitor) said: ‘You have got it (*i.e.*, a particular entry) on the Wednesday,’ and I said, ‘That is easy enough; I can strike it out?’ And he did ‘strike it out’ ‘on the Wednesday,’” the day which would not suit his case and entered it on the preceding day, which would.

Books kept by a person of such a conception of their value, I can place no dependence upon even if they were evidence. Moreover there are throughout circumstances of a most suspicious character which have not been explained.

We are always very loath to interfere with the finding of fact by a trial Judge.