

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Ont.]

[Oct. 3.

ROSS v. CHANDLER.

Partnership—Principal and agent—Partnership funds—Third party—Notice—Inquiry.

R., a member of the firm of R. M. & Co., engaged on a contract for railway construction in Quebec, shortly before its completion went to Ontario, leaving his partners to finish the work, collect any balance due, pay the liabilities and divide the balance among them. M. & C. finished the work and received \$56,000 and over, went to Toronto and formed a new partnership of which R. was not a member. Having undertaken another contract in North Ontario, they arranged with the head office of the Imperial Bank to open an account with its branch at New Liskeard and the cheque payable to R. M. & C. was cashed at the branch in Toronto, and by instructions to the New Liskeard branch was placed to the credit of the new firm there and the whole sum was eventually drawn out by the latter firm. R. later brought an action against M. & C. for winding up the affairs of their co-partnership and, pending that action took another against M. & C. and the bank, claiming that the latter should pay the amount of the cheque with interest into court subject to further order.

Held, affirming the judgment of the Court of Appeal (19 O.L.R. 584), Idington and Anglin, JJ., dissenting, that M. & C. had acted within their authority from R. by obtaining cash for the cheque; that there was nothing to shew that they had misapplied the proceeds or intended to do so by their dealing with the cheque; that in any case there was no notice to the bank of any intention to misapply the funds and nothing to put them on inquiry; and that the action against the bank must fail.

Appeal dismissed with costs.

Laflaur, K.C., and *W. A. Mason*, for appellant. *Rose*, K.C., for *McRae and Chandler*. *Bicknell*, K.C., for *Imperial Bank*.