

the services of the solicitor and induce him to act for the client. A client may give his solicitor or counsel a preliminary fee in this sense—if so, it is a present; it does not at all diminish the fees properly chargeable and taxable against the client, and does not appear in the bill. . . . A promise to pay a “retainer” is not enforceable—and if the professional man is content to take a promise to pay a “retainer,” instead of insisting upon payment in cash, he must rely upon the honour and generosity of his client. A promise to pay a retainer is void.

The appeal should be dismissed with costs.

E. Meek, K.C., for appellant. *R. McKay*, for client.

Province of Manitoba.

COURT OF APPEAL.

Full Court.] ALDOUS *v.* SWANSON. [Sept. 27.]

Principal and agent—Revocation of agency—Work done before revocation—Commission on sale of land—Quantum meruit—Distinction between power to revoke authority and right to do so.

Appeal from judgment of METCALFE, J., noted ante, p. 388, dismissed with costs.

Full Court.] [Sept. 27.]

HAINES v. CANADA RAILWAY ACCIDENT CO.

Accident insurance—Proviso against liability if insured come to his death while under the influence of intoxicating liquor—Onus of proof—Condition that notice of death must be given within ten days thereafter—Tender before action, whether an admission of liability—Waiver—Impossibility of performance.

Appeal from judgment of MATHERS, C.J., noted ante, p. 270,
allowed with costs, the court

Held, 1. (CAMERON, J.A., dissenting). A notice within ten days after discovery of the body of the insured was sufficient.

Bailey v. De Crespigny, L.R., 4 Q.B., at p. 185, and *Trippe v.*