

some remuneration for his services, though the amount he claims cannot possibly be supported. Ten dollars should well repay him for the time he expended, and I fix his remuneration at that amount.

Defendant having filed an account, judgment was given as follows.

THE MASTER:—On the 17th May, 1904, I found that defendant was the agent of plaintiffs, and that, under the terms of the contract between them (exhibit 2), he was precluded from entering into contracts for decorations on his own behalf and for his own profit, and that he was bound to account to plaintiffs for all amounts received under any contracts purporting to have been so entered into.

Pursuant to my direction, defendant, on 27th June, 1904, filed an account of receipts and disbursements in connection with such contracts. Schedule A. of this account shews receipts to the extent of \$1,469.30, and as to this no question arises. Schedule B. shews commission and general disbursements in respect of all contracts, and schedule C. shews disbursements attributable to specific contracts.

Before dealing in detail with these last two schedules, it will be well to lay down some general principles which must, I apprehend, govern the inquiry. Defendant, as I have found, was plaintiffs' agent. Contrary to his duty as such agent, and in violation of the terms of his contract, he purported to enter into certain contracts on his own account. The first principle which must apply is that plaintiffs must, as far as possible, be put into the position which they would have been in had the contract been carried out; in other words, they must not be allowed to suffer by reason of defendant's default. The second is that defendant must not be allowed to make a profit out of his wrong-doing. The third is that, the whole trouble having been brought about by defendant's default, the onus is entirely on him, and every doubtful circumstance must be construed unfavourably to his rights and interests. See *Story on Agency*, 9th ed., sec. 333.

Coming now to the account, the first item of schedule B. is not strictly speaking a disbursement. It is \$293.86, being 20 per cent. commission on the \$1,469.30 received from the