

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

NOVEMBER 10TH, 1913.

BLACKIE v. SENECA SUPERIOR SILVER MINES
LIMITED.

5 O. W. N. 252.

Broker — Action for Balances of Commission — Sale of Shares of Mining Company — Evidence—Payment into Court—Appeal—Costs.

LATCHFORD, J., gave judgment for plaintiff for \$1,238.75 balance due plaintiff for commissions upon the sale of the capital stock of the defendant company.

SUP. CT. ONT. (2nd App. Div.) *held*, that upon the evidence plaintiff had not earned more commission than that paid him by the defendants together with \$10 paid into Court by them.

Appeal allowed with costs, judgment for plaintiff for \$10 with Division Court costs up to the time of payment in, costs to the defendants of the action on the High Court scale thereafter.

Appeal by the defendant company from the judgment of LATCHFORD, J., in favour of the plaintiff for the recovery of \$1,238.75 and \$10 paid into Court by the defendant company, and costs in an action by a mining broker for balances alleged to be due him for commissions upon the sale of the company's stock.

The appeal to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

R. S. Robertson, for defendant company, appellant.

J. W. Mahon, for plaintiff, respondent.

HON. MR. JUSTICE SUTHERLAND.—The defendant company has a capital stock of \$500,000 divided into 500,000 shares of the par value of \$1.

In the fall of 1911 it was in financial straits and it was necessary to raise money in some way for development purposes or otherwise it would be liable to lose certain rights under a lease.

It was thought best to try and sell some of the stock of the company, and a written arrangement was entered into with the plaintiff on the 15th November whereby if he sold