

securities taken under an order or judgment of the Court shall be taken in the name of the Accountant of the Court unless otherwise ordered. This is the policy or practice of the Court with reference to sales of lands of the lunatic, when mortgages are taken to secure part of the purchase-money. The principal moneys of the mortgage will be paid into Court to the credit of the estate, as well as all moneys which are payments for interest, to be accumulated, unless these periodical payments are required for the maintenance of the lunatic, in which case proper directions are to be given in the order sanctioning the sale and the mortgage. In this case, I understand the estate is otherwise ample for maintenance, and the interest may be paid into Court. It is, nevertheless, the duty of the committee to look after the mortgage investment as if the mortgage had been taken to and in the name of the committee.

BRITTON, J.

APRIL 29TH, 1912.

PEACOCK v. CRANE.

Principal and Agent—Sale of Mining Property—Secret Commission—Enhanced Price—Fraud—Right of Purchasers as against Agents to Recover Sum Paid in Addition to Actual Price—Issue—Costs.

An issue directed by an order.

McConnell and others, the owners of the Silver Cliff mine, desired to sell it for \$500,000, and promised to pay the defendant Moore a commission of \$25,000 should Moore sell it at the price named. The defendant Jeffery was associated with Moore. Moore and Jeffery became acquainted with the defendant Eames, who was the private secretary of the plaintiff Peacock, and they, Moore, Jeffery, and Eames, formed the plan of selling the Silver Cliff mine to the plaintiffs. Moore then saw the owners, and asked for a larger commission than \$25,000. The owners refused to pay any larger sum. Moore then suggested that the owners should call the price \$550,000, upon the distinct understanding and agreement that only \$500,000 should be paid to them, and that, out of this sum of \$500,000, a commission of \$25,000 would be paid. An agreement was arrived at, between Moore and the owners, that Moore should have authority to sell the mine at \$550,000, upon terms and conditions fully set out.