

not a question of renewal, but of a new licence. Whether a decision of the licensing court can, like a judgment, be set aside for fraud or perjury, I do not know. I should be loth to think that no remedy could be found to meet a case of that kind. But no such relief can be obtained on this application. In the first place there is no evidence of fraud or perjury, though there are allegations of error, and in the second place such relief could only be obtained in an action where *vivâ voce* evidence could be taken.

The application must therefore be dismissed, with costs.

Applicant's Attorney: *A. L. Cohn*; Respondent's Attorneys: *Van Hulsteyn, Feltham & Ford*.

[G.H.]

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EX PARTE EISENBERG, N.O.

1914. November 26, December 1. BRISTOWE, J., DE VILLIERS, J.P.

*Insolvency.—Provisional Trustee.—Sec. 163 of law 13 of 1895.*

A provisional trustee has power to make application for a commission under sec. 163 of Law 13 of 1895.

Application for a commission under section 163 of law 13 of 1895. It was desired to examine a number of witnesses, one of whom it was alleged was shortly leaving the jurisdiction.

The application was made by the provisional trustee.

*G. Hartog*, for the applicant, moved.

BRISTOWE, J., granted the application to examine the witness who was about to leave.

The application in respect of the remaining witnesses was ordered to stand over for further evidence as to their being material.

*Postea* (December 1):—

On production of an affidavit by the provisional trustee as to the remaining witnesses.

DE VILLIERS, J.P., granted an order as prayed.

[*Reporter's Note*: The point as to whether a provisional trustee could apply under sec. 163 was raised by MASON, J. in *Ex parte Norman* (W.L.D., 1911, not reported), and answered in the affirmative. See sec. 72 of law 13 of 1895, and compare *Ex parte Robson* (1 R. 70).]

Applicant's Attorney: *E. Gluckmann*.

[G.W.]