

DOWELL *v.* SCHISLER.

Opinion delivered July 29, 1905.

APPEAL—OBJECTION TO INSTRUCTIONS—SUFFICIENCY.—Where an objection in gross was made to two instructions, and the objection to one of them was waived by omitting same from the motion for new trial, and no objection to it is urged on appeal, the court will not consider the other.

Appeal from Greene Circuit Court.

ALLEN HUGHES, Judge.

*H. L. Ponder and Johnson & Huddleston*, for appellant.

*J. D. Block and Hawthorne & Hawthorne*, for appellee.

MCCULLOCH, J. This is a suit by appellant, Dowell, to recover of appellee, Schisler, commissions on the sale of a sawmill plant and other property. The sale was made direct by Schisler to the Culver Lumber Company, but Dowell asserts that he procured the purchaser, and thereby earned a commission. No objections were made to the giving or refusal of instructions, except to the giving of two upon request of the defendant; but the objection was made in gross to both instructions, and, as the objection to one was waived by omitting the same from the motion for new trial, and no objection to it is urged here, we cannot consider the other. An objection in gross to several instructions cannot be considered unless all the instructions embodied in such objections are had. *Wells v. Parker*, ante, p. 41; *Young v. Stevenson*, 73 Ark. 480, and cases cited.

Nothing remains for us to consider but the sufficiency of the testimony, giving it the strongest force which the jury were warranted in giving it. No useful purpose is to be served by discussing the testimony in detail here. We think it is sufficient to sustain the verdict, and the judgment must be affirmed.

BATTLE, J., absent.

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