

FEBRUARY 5TH, 1915.

CURRY v. SANDWICH WINDSOR AND AMHERSTBURG
R.W. CO.

Negligence—Collision between Street Car and Automobile—Derailment of Car—Res Ipsa Loquitur — Attempt to Prove Cause of Derailment—Evidence—Findings of Jury—New Trial.

Appeal by the plaintiff from the judgment of MIDDLETON, J., ante 140, dismissing the action.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

J. H. Rodd, for the appellant.

M. K. Cowan, K.C., and A. R. Bartlet, for the defendant company, respondent.

THE COURT ordered a new trial; costs of the former trial and of the appeal to be costs to the party ultimately succeeding.

HIGH COURT DIVISION.

LENNOX, J.

FEBRUARY 1ST, 1915.

ROLPH & CLARK LIMITED v. GOLDMAN.

Contract—Goods Supplied to Company—Personal Liability of President—Undertaking to Pay — Substituted Contract—Evidence—Statute of Frauds—Guarantee—Pleading.

Action for the price of goods manufactured by the plaintiff company and supplied to the Diamond Cleanser Manufacturing Company Limited. The defendant was the president of that company, and the plaintiff company alleged that he personally undertook to pay for the goods.

E. G. Long, for the plaintiff company.

A. W. Holmested, for the defendant.

LENNOX, J., in a written opinion of considerable length, first outlined the facts, and then stated that the questions to be de-