

ROSE, J.

MAY 8TH, 1920.

GETZLER v. DOMINION FOUNDRIES AND STEEL LIMITED.

Contract—Remuneration for Services—Employment of Plaintiff in Regard to Particular Matter—Employers Taking Matter out of Hands of Plaintiff—Excuse—Agreement to Pay one Half of Refund of Overpayments Made to Employers—Preventing Plaintiff from Obtaining Refund—Interference—Damages for Breach of Implied Contract.

Action to recover remuneration for the plaintiff's services under an agreement with the defendants.

The action was tried without a jury at Hamilton.
George Lynch-Staunton, K.C., for the plaintiff.
H. A. Burbidge, for the defendants.

ROSE, J., in a written judgment, said that the plaintiff carried on business as an expert adviser of shippers in matters pertaining to contracts with transportation companies for the carriage of goods; and the defendants were large shippers of goods carried by rail.

In May, 1917, the plaintiff and the defendants entered into an agreement, the terms of which were set forth in two documents signed by the defendants.

By the first, called "Forward Year Form," the defendants subscribed \$200 for the services of the plaintiff for one year, and agreed to pay one cent for each freight bill audited by the plaintiff; and the plaintiff agreed that, should the overcharges shewn by him not equal the fee of \$200 and audit charges one cent each bill by the expiration of this contract, he would audit the defendants' future freight bills free of charge until the overcharges should equal the fee and audit costs. By the second document, called "Special Back Year Form," it was recited that this document, in connection with the "Forward Year" document, covered the auditing of the defendants' freight bills from the 1st January, 1913, to the 28th May, 1917; for which the defendants agreed to pay one cent for each freight bill audited. They also agreed to pay 50 per cent. of the refunds received by them after deducting the \$200 and the one cent audit charge from the total refunds.

Working under this agreement, the defendants sent to the plaintiff, to be audited, some 18,000 or 20,000 bills paid by them for incoming and outgoing freight. These were examined and reported upon by the plaintiff, and certain claims were, as a result, presented