

STREET, J.

FEBRUARY 24TH, 1905.

CHAMBERS.

TORONTO INDUSTRIAL EXHIBITION ASSOCIATION
v. HOUSTON.

*Evidence—Foreign Commission—Terms—Costs and
Expenses.*

Appeal by plaintiffs from order of Master in Chambers, ante 303, dismissing plaintiffs' motion for a commission to Great Britain to examine Major Hugh Rose as a witness on behalf of plaintiffs.

F. R. MacKelcan, for plaintiffs.

Grayson Smith, for defendant.

STREET, J., allowed the appeal and made an order for the issue of the commission upon the plaintiffs undertaking to pay all the expenses and to examine on interrogatories. Costs of appeal to be part of the costs of the commission.

FEBRUARY 24TH, 1905.

DIVISIONAL COURT.

ELGIN LOAN AND SAVINGS CO. v. LONDON GUAR-
ANTEE AND ACCIDENT CO.

*Principal and Surety—Guarantee Policy—Fidelity of Mana-
ger of Loan Company—Misappropriation of Moneys—
Release of Surety—Untrue Statements—Conditions of
Policy—Necessity for Setting forth in Policy—Incor-
poration by Reference to Application—Insurance Act of
Ontario, sec. 144 (1), (2)—Construction—Change in
Duties of Manager.*

Appeal by plaintiffs from judgment of MACMAHON, J., 4 O. W. R. 99, dismissing action upon a guarantee policy issued by defendants in favour of plaintiff loan company to secure the fidelity of one Rowley, manager of that company.

The appeal was heard by BOYD, C., MEREDITH, J.,
MAGEE, J.

W. K. Cameron, St. Thomas, for plaintiffs.

J. B. Clarke, K.C., for defendants.