

THE  
ONTARIO WEEKLY REPORTER

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No. 5

SCOTT, LOCAL MASTER.

DECEMBER 24TH, 1904.

TRIAL.

OTTAWA STEEL CASTINGS CO. v. DOMINION SUPPLY CO.

*Mechanics' Liens—Assignment—Debt "Due"—Lien-holder—Priority—When Lien Attaches—Mechanics' Lien Act, R. S. O. ch. 153, secs. 4, 13—Judicature Act, sec. 58 (5).*

Ellard, a sub-contractor, commenced work on 19th August, 1903, and completed his contract on 11th October, 1904. He registered a lien on 12th October, 1904. On 14th November, 1903, the contractor by whom Ellard was employed had assigned \$2,588.32 of the amount "due" to him from the owner on his contract, to Drummond & Co., also sub-contractors, who duly gave notice thereof to the owner. At the time of the assignment \$2,588.32 had been earned under the contract, but it did not become payable until the giving of the architect's certificate on 4th November, 1904.

This action and others consolidated with it in which the liens of the plaintiffs, Ellard, and others, were sought to be enforced, were tried before W. L. Scott, Local Master at Ottawa.

D. J. McDougal, Ottawa, for plaintiffs.

T. A. Beament, Ottawa, for the liquidator of defendants the Dominion Supply Co.

A. E. Fripp, Ottawa, for Ellard.

G. F. Henderson, Ottawa, for Drummond & Co. and others.

T. McVeity, Ottawa, for defendants the corporation of the city of Ottawa.