

orders of MEREDITH, C.J.C.P., in Chambers, refusing to quash convictions of the appellants by the Police Magistrate for the City of Woodstock. See the reasons of the Chief Justice noted ante 117, reported in '34 O.L.R. 545. Leave to appeal was granted by SUTHERLAND, J.: see ante 172.

The appeals were heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

G. S. Gibbons, for the appellants.

W. Lawr, for the complainant, respondent.

RIDDELL, J., delivering a considered opinion, said that the evidence, when read in the light of the exhibits, shewed that the *modus operandi*, in making the sales of coal oil in respect of which the defendants were convicted, was to obtain from the purchaser an order on the Columbus Oil Company of Columbus, Ohio, to ship to the purchaser a named quantity of oil to be delivered at a place named in the order—cash on delivery. There was no evidence of sale beyond this, and nothing to indicate sale by sample or delivery from a tank car. This was not a sale within the meaning of sec. 416 of the Municipal Act, R.S.O. 1914 ch. 192, and consequently not an offence: *Rex v. St. Pierre* (1902), 4 O.L.R. 76; *Rex v. Pember* (1912), 3 O.W.N. 1216. The carrying of samples was neither proved nor suggested; and the amending Act of 1915, 5 Geo. V. ch. 34, secs. 32, 33, did not apply.

LATCHFORD, J., read an opinion to the same effect.

FALCONBRIDGE, C.J.K.B., and KELLY, J., concurred.

*Appeal allowed with costs throughout.*

FIRST DIVISIONAL COURT.

DECEMBER 9TH, 1915.

GODKIN v. WATSON.

*Executors and Administrators—Administrator's Account—Payment of Debts in Full—Presumption as to Assets—Identification of Assets of another Estate—Account—Reference—Judgment—Modification on Appeal—Costs.*

Appeal by the defendant from so much of the judgment of KELLY, J., of the 30th June, 1915, in an action for an account, as made the defendant personally liable for the debt of the George Watson estate to the Robert Ford Lynn estate.