

facts; and justice for all parties would be more assured if the two actions were tried by the same Judge and at or about the same time. Upon the defendant Burton paying into Court, on or before the 4th May, \$100 by way of security for costs, an order should go directing the transfer of Huff's action into the Supreme Court of Ontario, and that it be tried at or about the time of the trial of the other action, by the same Judge and at the same sittings. Costs of this motion to be disposed of by the trial Judge. If the money shall not be paid into Court, the motion will be dismissed with costs. Harcourt Ferguson, for Burton. W. A. J. Bell, K.C., for Huff. J. Y. Murdoch, for Cundle.

BOEHMER v. KELLY AND SELBY—MIDDLETON, J.—APRIL 30.

Trusts and Trustees—Purchase of Hotel Property for Company not in Existence—Failure to Form Company—Purchaser Named by Promoters—Use of Purchaser's own Money to Make Down-payment—Action by Promoter for Declaration of Trust for Company—Dismissal on Facts.—Action for a declaration that the defendant Kelly was trustee of the Arlington Hotel property, which was purchased in her name from the Canada Permanent Mortgage Corporation, for a company, not formed, but the formation of which was promoted by the plaintiff. The defendant Kelly became the purchaser of the property, expecting to convey it to the company when formed, but in fact used her own money to make the down-payment, \$2,000. The plaintiff alleged that the defendant Kelly put up her own money in fraud of him after he had arranged to place her in funds. The action was tried without a jury at Toronto. MIDDLETON, J., in a written judgment, said that his findings were against the plaintiff on the facts. The plaintiff had no funds and no means of obtaining any, and the defendant Kelly took up the contract because she was obliged to, as she had means, and the plaintiff had left her in the lurch. It had not been shewn that the property was worth more than the price it sold for. If the defendant Kelly took possession of any of the plaintiff's goods, she might be liable in an action for conversion; but there was no such claim in this action. Action dismissed with costs. R. S. Robertson, for the plaintiff. A. Cohen, for the defendant.