

Robson, J.]

[October 20.

SHEA v. GEORGE LINDSAY CO.

*Guarantee—Indemnity—Oral promise to answer for the debt of another—Statute of Frauds.*

The plaintiff had supplied goods to the defendants, the Lindsay Co., in which the defendant Finn held most of the stock, and was pressing for payment, when Finn verbally promised to pay the debt or see it paid, if plaintiff would extend the time for payment and continue to supply goods to the company and that he would "go good" for such past and future indebtedness.

*Held*, that this promise was not a contract of indemnity or novation, but was a "promise to answer for the debt of another" within s. 4 of the Statute of Frauds, and that, as it was not in writing, an action for the breach of it could not be maintained.

*Beattie v. Dinnick*, 27 O.R. 285, and *Harburg & Co. v. Martin* (1902), 1 K.B. 778, followed.

*A. V. Hudson and Ross*, for plaintiff. *L. Elliott*, and *Stackpoole*, for defendant Finn.

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ALLIS-CHALMERS v. WALKER.

*Warranty—Description of goods—Sales of goods—Contract for work and materials.*

The plaintiffs submitted a written proposal to supply and erect in operating order, in the basement of defendant's theatre on foundations supplied by him, an engine, generator and switchboard for a sum mentioned. The proposal embodied specifications for the engine, describing an "Ideal" engine in language evidently that of the manufacturers as follows: "The Ideal engine is particularly adapted to direct connected work on account of its perfect balance, quiet running, etc." The defendant, who had previously selected the kind of engine he wanted from a number of different kinds mentioned in the preliminary discussions, accepted the proposal. The plaintiffs performed the contract, but the engines could not be made to run quietly enough to satisfy the defendant as the noise was heard in the auditorium above.

*Held*, that the bargain was not a sale of goods, but a contract for work and materials and that there was no war-