

the deceased, and so have really no locus standi. This will should not have been brought into existence. It was procured to be made by Mrs. Brown and Mrs. Hayes, and their solicitor was employed. The cautions proper to be taken to find out the old lady's fitness for the occasion were not taken. Such remissness is not to be rewarded by depleting the estate to pay the costs of the party who loses. It is well that costs are not given against the plaintiffs; but I refrain from this for the reasons given in *Ingram v. Wyatt*, 1 Hagg. Ecc. at p. 470.

The action is dismissed without costs.

SOADY V. SOADY—BRITTON, J.—APRIL 11.

Money Lent—Action for—Onus—Failure to Discharge—Statute of Limitations.]—Action by a man against his brother for \$2,264, made up of ten items of money lent, money paid for the defendant, services, board, etc. The learned Judge said that the onus was upon the plaintiff, and that he had not established one of the items. All items before the 1st January, 1907, were barred by the Statute of Limitations. Action dismissed with costs, and counterclaim dismissed with costs. W. K. Murphy, for the plaintiff. R. D. Moorhead, for the defendant.

ALLIS-CHALMERS-BULLOCK LIMITED V. ALGOMA POWER CO.
LIMITED—MIDDLETON, J.—APRIL 14.

Contract—Supply of Machinery and Plant—Abatement of Price—Several Issues of Fact—Findings of Trial Judge—Costs.]—Action to recover a balance alleged to be due to the plaintiff company for the supply and installation of machinery and plant under two agreements: (1) to supply the defendant company with certain plant required for an extension of its works at Michipicoten Falls; (2) for the construction of certain machinery at the Helen mine, which the defendant company had undertaken with the mining company to install for the purpose of enabling electricity to be used as a motive power at the mine. Several issues of fact were tried; and the learned Judge makes his findings as to these, in a written opinion; and states his conclusion to be that there should be an abatement of the balance due the plaintiff company by sums aggregating \$3,-