

were each to be paid \$2,500 per annum, in weekly instalments.

The action was tried at Toronto on the 18th and 19th February, 1913.

D. I. Grant, for the plaintiff.

W. N. Tilley, and R. H. Parmenter, for the defendants.

HON. MR. JUSTICE MIDDLETON:—The product in question was not upon the market at all. Some brands of it were suited for use as a lubricant upon railways and street railways. If a railway or large street railway, such as the Toronto Street Railway, could be induced to adopt it the sales would be very large and the result would be immensely greater than what could be expected from sales to individual factories or by retail, where the amount required would be, comparatively speaking, insignificant.

King apparently made no success in his endeavours in the province of Quebec, and in a few weeks, the company made up its mind to dismiss him. Carveth at this time was giving entire satisfaction. It was assumed that a failure to sell the 12,000 shares by the 1st of June would justify discharge. Carveth was asked not to sell, so that the company might be in a position to get rid of King. He assented. King was got rid of, and Carveth continued; the result being that the terms of the agreement would continue to govern so far as he was concerned, save that he was removed from the obligation, originally joint, with respect to the sale of the stock.

Carveth, through acquaintances, was able to secure an introduction to the Toronto Street Railway and to the Canadian Northern. He began a series of demonstrations of the efficiency of the lubricant in question. His success was not unqualified partly because the manufacture was yet in the experimental stages and the product of unequal quality.

Carveth was sanguine and optimistic, perhaps to an unreasonable degree, and was ready to assume much from any encouragement that he received from those in charge of the affairs of these railways. I think that he honestly did his best to accomplish the introduction of the wares in question; and, while his correspondence is perhaps too rosy and optimistic I acquit him of any intentional misleading or dis-