

THE
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CARTWRIGHT, MASTER. APRIL 9TH, 1906.

CHAMBERS.

YOUNG v. HYSLOP.

Discovery—Inspection of Motor Car—Allegation of Uselessness.

This action was brought to recover \$850 paid by plaintiff to defendants for a second-hand automobile, which plaintiff alleged was useless.

The defendants moved for an order under Rule 109; allowing them to inspect the machine and take it apart in presence of their witnesses and if desired make trial of it.

A. Fasken, for defendants.

W. H. McFadden, K.C., for plaintiff.

THE MASTER:—It appears that defendants' experts have on two or three occasions made examinations of the machine since its purchase. On the last of these inspections there was "a complete overhauling of it." . . . Since that time plaintiff only took it out once. The result, he says, was so unsatisfactory that he has never taken it out since.

Plaintiff's examination for discovery was taken on 10th March, so that defendants then knew the position taken by him. It was not until 3 weeks later that this motion was launched. As the assizes commence on the 17th instant it may not be easy to agree on a time convenient to both parties.