can agree upon that sum ($1,500), I would dismiss the appeal with costs. If not, I think it should be allowed with costs, the costs of the last trial and of the appeal, as we directed in the Lewis case, to be costs in the cause. I refer to the case of Collier v. Michigan Central R. W. Co., 27 A. R. 630; Green v. New York and Ottawa R. W. Co., ib. 32; and other cases referred to in the judgment of Meredith, J., in the Court below, 11 O. L. R. at p. 168.

CARTWRIGHT, MASTER. APRIL 24TH, 1906.

CHAMBERS.

RYSDALE v. WABASH R. W. CO.

Pleading—Statement of Claim — Animal Killed on Railway Track—Railway Act.

Apart from the description of the parties and the prayer for relief, the statement of claim was as follows:—

1. On or about the 15th October, 1905, a horse, the property of the plaintiff, got upon the property of the defendant company in the township of Stamford, in the county of Welland, and was killed by one of the defendants' trains.

The defendants moved to strike out the statement or to be allowed to examine plaintiff for discovery before delivery of statement of defence, alleging that the statement of claim disclosed no reasonable ground of action.

H. E. Rose, for defendants.

R. McKay, for plaintiff.

THE MASTER:—The only material in support of the motion is an affidavit of defendants' solicitor, which merely says: "It is submitted that the said statement of claim discloses no reasonable cause of action." If this is the ground of attack, the matter must be dealt with by a Judge of the High Court: see Knapp v. Carley, 7 O. L. R. 409, 3 O. W. R. 187. But the motion was argued as if the objection was that the statement of claim was embarrassing because it did not set out the facts with sufficient fulness to enable the defendants to know what case was to be made against them.