

ORDE, J.

SEPTEMBER 14TH, 1920.

HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO
v. ALBRIGHT.

*Contract—Construction—Sales of Shares and Assets of Company—
Liabilities—Sinking Fund Payments—Interest—"Accrued"—
Payment of Sum in Adjustment—Declaration—Specific Per-
formance.*

Action by the Commission and the Ontario Power Company of Niagara Falls against J. J. Albright, arising out of a difference of opinion as to the meaning of a certain agreement, dated the 12th April, 1917, by which the defendant, on behalf of himself and other shareholders of the plaintiff company, agreed to sell to the plaintiff Commission 90,000 of the total issue of 100,000 shares of the plaintiff company, and also the remaining 10,000 shares "to the extent that the holders thereof put the vendor in the position to make delivery" thereof prior to the time for completion, in consideration of the issue of certain debentures of the Commission and of the execution by the Commission of a certain other agreement.

The plaintiffs asked for a declaration that the defendant ought to have left in the hands of the plaintiff company on the 1st August, 1917, the sum of \$1.25 for each electrical horse power sold by the plaintiff company and paid for by the purchasers thereof during the period from the 1st January to the 30th June, 1917, and for specific performance of the agreement of the 12th April, 1917, in accordance with such declaration, or for damages, and for an account.

The action was tried without a jury at a Toronto sittings.

C. S. MacInnes, K.C., and Christopher C. Robinson, for the plaintiffs.

A. W. Anglin, K.C., for the defendant.

ORDE, J., in a written judgment, said that the time for the completion of the agreement was the 1st August, 1917. It was a term of the agreement that the assets of the plaintiff company and of another company, called the transmission company, whose capital stock was all owned by the plaintiff company, should be those set out in a schedule, and that the defendant would cause or procure the plaintiff company and the other company to do such things as might be required, so that the liabilities of those two companies should be only those described in another schedule (D), any other liabilities being assumed by the defendant.