

RULES OF COURT.

Cons. Rule 1130.—See MUNICIPAL CORPORATIONS, 5.

Cons. Rule 795.—See RAILWAYS, 2.

Cons. Rule 1074.—See REPLEVIN.

SALE OF GOODS.

1. *Engine — Warranty for Return of Article.*—Where in a contract for the sale of a gasoline engine and tank there was a warranty that if the engine would not work well, notice thereof was to be given to the defendants, stating wherein it failed, and giving a reasonable time to get to it and remedy the defect, and if such defect could not be remedied, the engine was to be returned to the defendant and a new engine given in its place:—

Held, that the plaintiff's remedy under such warranty was for the return of the engine and its replacement by another engine, and not for damages for breach of warranty. *Hamilton v. Northey Manufacturing Co.*, 468.

2. *Specific Article—Warranty—Parol Evidence.*—Under a written contract for the sale by description of a specific article, namely, a gasoline engine with a pump standard, it not being pretended that it did not answer such description, such contract

must be taken to cover, as it purported to do, the whole contract between the parties, and parol evidence is not admissible to shew a warranty made prior to the entering into of the contract which is inconsistent with the written warranty, as it would be allowing the admission of parol evidence to control, vary, add to or subtract from the written contract; and statements alleged to have been made by the vendors, and acted on by the purchaser, to the effect that the engine would pump sufficient water for a certain number of horses and cattle were not such as to constitute a separate and independent collateral agreement, and admissible in evidence as such. *Northey Manufacturing Co. v. Sanders*, 475.

3. *Sale of Goods—R.S.O. ch. 150—Factors Act—"Agent"—"Entrusted"—Innocent Purchaser.*—The word "agent" referred to in R.S.O. (1897) ch. 150, "An Act respecting contracts in relation to goods entrusted to agents," means one who is entrusted with the possession as agent in a mercantile transaction for the sale, or for an object connected with the sale of the property.

And an agent who has obtained possession of certain lumber from the master of a vessel without authority from the owner was:—

Held, not to have been en-