

fairly and accurately as could be expected after such a lapse of time: see *Hill v. Wilson* (1873), L.R. 8 Ch. 888; *In re Garnett* (1885), 31 Ch. D. 1. The appeal should be allowed and the action dismissed, for two reasons: (1) that no binding promise was proved to have been made; and (2) that no consideration had been proved.

LENNOX, J., concurred.

MASTEN, J., also concurred, for reasons stated in writing. He was of opinion that no contract had been established to which the Court could give effect, because Carter's statement of intention, in the circumstances under which it was made, was too vague and uncertain in its nature to be capable of enforcement in a court of law; indeed, the statement of Carter was the statement of a gratuitous intention rather than of a binding contract.

RIDDELL, J., dissented, for reasons stated in writing.

Appeal allowed with costs and action dismissed with costs; RIDDELL, J., dissenting.

SECOND DIVISIONAL COURT.

MARCH 17TH, 1916.

*CHARTERS v. McCracken.

Mechanics' Liens—Lien of Material-man—Validity—Mortgagee—Release of Equity of Redemption in Favour of—Registration of Deed before Registration of Liens—Bona Fides—Absence of Actual Notice—Registry Act, R.S.O. 1914 ch. 124, sec. 2—Mechanics and Wage-Earners Lien Act, R.S.O. 1914 ch. 140, sec. 21—Rights of Lien-holder as to Portion of Mortgage-moneys not Advanced.

Appeal by the plaintiff (a material-man) from the judgment of an Official Referee in an action to enforce a mechanic's lien. The Referee found the plaintiff entitled to a lien, but found also that certain of the defendants, mortgagees, had priority to a named extent, and ordered the plaintiff to pay the mortgagees' costs of proving their claims.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

A. J. Russell Snow, K.C., for the appellant.