

As against such an assignee an oral agreement, of which he has notice, by the assignor to give to an endorser a chattel mortgage to secure him against liability, will be enforced.

Judgment of ROSE, J., affirmed.

R. S. Cassels for the appellant.

Gibbons, Q.C., for the respondents.

From County Court, York.]

[June 30.

HOWDEN v. LAKE SIMCOE ICE CO.

Negligence—Nuisance—Highway.

Allowing a broken wagon to remain on the highway for nearly two hours is not in itself sufficient evidence of negligence to support an action by a person who strikes against the wagon while passing in a street car. Such a broken wagon does not become a nuisance or obstruction to the highway until, having regard to the difficulty of removing it, it has been allowed to remain thereon for an unreasonable time.

Judgment of the County Court of York affirmed.

Kappeler for the appellant.

Bruce, Q.C., for the respondent.

From FALCONBRIDGE, J.]

[June 30.

ROBERTS v. MITCHELL.

Negligence—Nuisance—Highway—Damages—Overhanging cornice.

The owner of a building, from which a cornice overhanging the sidewalk falls because the nails fastening it to the building have become loosened by ordinary decay and injures a passer-by, is liable in damages without proof of knowledge on his part of the dangerous condition of the cornice, the defect being one that could have been ascertained by him by reasonable inspection.

Judgment of FALCONBRIDGE, J., affirmed.

Oster, Q.C., for the appellant.

G. F. Henderson for the respondent.

From Q.B. Div.]

[June 30.

OSTROM v. BENJAMIN.

County Court—Jurisdiction—Claim over \$300—Liquidated or ascertained amount—R.S.O., c. 47, s. 19, s.s. 2.

Whenever a sum up to \$400 is agreed on by the parties as a remuneration for a service to be performed or as the price of any article sold, if the service be performed or the article be delivered in pursuance of the bargain, the amount may be recovered in the County Court, denial of the contract and price not availing to oust the jurisdiction.

Robb v. Murray, 16 A.R. 303, considered.

Judgment of the Queen's Bench Division affirmed, OSLE, J.A., dissenting.

F. E. Hodgins for the appellant.

A. J. Russell-Snow for the respondent.