

to inspect their branch office, expecting that it would be but a temporary visit, but after a week or two he received instructions to remain in Toronto in their service. They, however, removed their branch office from Toronto, and another person took possession of the wire which they had, and retained the plaintiff as an employee. This person has also now withdrawn, and the plaintiff is at present out of employment.

All the evidence shews that plaintiff is only temporarily resident in Ontario, while ordinarily resident in the United States. His past life seems to have been one of constant change from place to place, although Kansas City, where his mother and sister live, has been his headquarters. His evidence indicates that he will not remain in Toronto unless satisfactorily employed. *Allcroft v. Morrison*, 19 P. R. 59, 65, referred to.

Order made for security in the usual form. Costs in the cause.

WINCHESTER, MASTER.

JANUARY 16TH, 1903.

CHAMBERS.

# RE CLEGHORN AND ASSELIN.

*Sale of Goods—Statute of Frauds—Actual Delivery—Samples—Conduct of Parties—Carriers' Interpleader.*

Summary trial of an interpleader respecting the ownership of three car-loads of potatoes held by the Canadian Pacific Railway Company, on whose application the matter was brought into Court. The parties consented to a summary disposition of the claims in Chambers.

W. N. Tilley, for Cleghorn & Co.

W. J. Elliott, for Oscar Asselin.

THE MASTER.—The claimants Cleghorn & Co. asserted that they purchased the potatoes from Oscar Asselin, the other claimant, while he denied that there ever was any completed contract respecting them. The contest was as to the conduct of the parties, it being contended on behalf of Cleghorn & Co. that such conduct was sufficient to take the bargain out of the Statute of Frauds, that is, that there was an actual sale by Asselin, accepted by Cleghorn & Co., and delivery made to them. The potatoes were shipped by Asselin from a point in the Province of Quebec to Toronto, consigned by the bills of lading to his own order. Asselin and one Fournier, employed by Asselin, arrived in Toronto last Christmas morning, and met Cleghorn, who went with them to look at the potatoes, when the prices were mentioned. Cleghorn picked up one or five potatoes from each car—he said the latter