

From Meredith, C.J.C.P.]

[Nov. 14, 1904.

LANGLEY v. KAHNERT.

*Sale of goods—Property passing—Consignor and consignee—
R.S.O. 1897, c. 148, s. 41—"Transfer."*

A quantity of furs were consigned by a manufacturer to a company, at its risk as to burglary, fire, etc., with the right to the company to sell the same for such price and on such terms of credit or otherwise as it chose, but was to pay the manufacturer within twenty-four hours after the sale of any article according to a price list furnished with the goods, and it might become the owner of any article on payment of the price according to such list, with the right to the manufacturers and the company respectively to withdraw or return any of the goods, and which right, from time to time, had been duly exercised.

Held, that the relationship between the parties was not that of vendor and purchaser, but of consignor and consignee, the property in the goods continuing in the consignor.

Held, also, that s. 41 of the Bills of Sale, R.S.O. 1897, c. 148, did not apply, there not having been any sale of the goods, the word "transfer" also contained in the section being used in a limited sense, namely, to a transaction in the nature of a sale.

W. R. Smyth, for appellants. Douglas, K.C., for respondents.

From Falconbridge, C.J.K.B.]

[March 7.

SMART v. DANA.

*Bond for performance of condition in appointment to office—
Resignation of office—Acceptance of—Subsequent breaches
—Liability for.*

Plaintiff resigned his office of sheriff which he had held for many years and defendant was appointed in his place under a commission containing a condition that he should pay plaintiff "out of the revenues of the said office" a certain sum for his life. Finding that the "revenues" were not sufficient to pay the amount he resigned his office on March 18th, and on April 24th following was re-appointed under a commission without any such condition. Action was brought on a bond given for the due fulfilment of the condition and judgment given for the amount of the penal sum and damages assessed for the breaches up to the time of his resignation and paid. A petition was sub-