

reason for the rule asserted, if now existent, is absent in cases where the agreement, though under seal, is not one which requires a seal to make it valid.

It was also contended that the later guaranty included only so much of the earlier one as dealt with the indebtedness of the Kelly company recited therein, viz., \$14,000; but that was not the correct construction of the letter of the 27th February.

The guaranties, however, did not extend to cover three notes given for the acquisition of the exclusive agency. These notes were not included in the description of "notes for goods to be supplied"—and the contract of guaranty is strictissimi juris.

Judgment for the plaintiffs, with a reference to the Master in Ordinary to take the accounts; the plaintiffs to have their costs up to and including the trial; further directions and costs of the reference reserved. The third party to be bound by the account, while its liability is to be the subject of subsequent trial.

MIDDLETON, J.

NOVEMBER 24TH, 1911.

***BANK OF BRITISH NORTH AMERICA v. STANDARD
BANK OF CANADA.**

*Banks and Banking—Obligation of Bank on which Cheques
Drawn by Customer to Bank Holding Cheques for Value
Given—Clearing House—Misrepresentation as to Funds of
Customer—Liability—Costs of Former Litigation.*

Action by the plaintiff bank, as holder of five cheques drawn by Maybee & Wilson upon the defendant bank, to recover the sum of \$2,918.23, being the aggregate amount of the cheques, less payments made thereon, and also to recover \$1,836.23, being the amount of costs incurred in litigation with the endorers of the cheques: see *Bank of British North America v. Haslip*, *Bank of British North America v. Elliott* (1914), 30 O.L.R. 299, 31 O.L.R. 442.

The cheques were deposited in a sub-branch of the West Toronto branch of the plaintiff bank, on the 1st October, 1913, and were put through the Clearing House in the ordinary course, and were received by the defendant bank at its head office on the morning of the 2nd October, and at its St. Lawrence Market branch (about a quarter of a mile from the head office)