

be capable of separation from the other claims and the amount of which is not stated.

On the whole, in view of the circumstances and the nature of the evidence on the question of damage, the defendants should be confined to nominal damages for breach of the contract, say \$50.

The appeal is allowed and the plaintiffs' action is dismissed with costs. There will be judgment for the defendants on their counterclaim for \$50 damages with costs.

The plaintiffs must pay the costs of the appeal.

GARROW and MACLAREN, JJ.A., concurred.

MACLENNAN, J.A., dissented.

SEPTEMBER 14TH, 1903.

SKILLINGS v. ROYAL INS. CO.

*Fire Insurance—Notice to Company Terminating Policy—
Registered Letter—Wrong Address — Receipt after Loss
—Statutory Conditions.*

Appeal by defendants from judgment of LOUNT, J., 4 O. L. R. 123, 1 O. W. R. 411, in favour of plaintiffs for \$8,661.67 and costs in an action to recover the amount of an insurance against fire upon a stock of lumber at Parry Sound.

The appeal was heard by MOSS, C.J.O., MACLENNAN, GARROW, and MACLAREN, JJ.A.

C. Robinson, K.C., and C. S. MacInnes, for appellants.
W. R. Riddell, K.C., and A. Fasken, for plaintiffs.

GARROW, J.A.—This is an appeal from the judgment of Lount, J., who tried the case without a jury, and directed a judgment in favour of the plaintiffs for the amount claimed.

The action is upon an insurance policy, dated 24th January, 1901, to run one year from the hour of noon of that day, for \$10,000, at the premium of \$165, paid in cash on the delivery of the policy.

The property covered by the policy, which consisted of lumber, was destroyed by fire on the night of 5th June, 1901, and the material question in dispute is whether the policy was on foot when the loss occurred, or whether it had been can-