

contained the clause, "Advise James Richardson & Son Limited" (the plaintiffs) "at Kingston of the arrival at Owen Sound." The defendants were guilty of negligence in not complying with the Dominion statute of 1910, 9 & 10 Edw. VII. ch. 61, sec. 11.

The plaintiffs would have placed the further insurance had they been notified. The plaintiffs' loss is directly the result of want of notice. The damages are not, in my opinion, too remote.

The plaintiffs' loss is the amount they would have received in addition to the amount they did receive. The plaintiffs were not bound, as between them and the defendants, to go into protracted and costly litigation with the insurance companies before making their claims against the defendants.

The plaintiffs are entitled to judgment for \$23,068.40, with interest at 5 per cent. per annum from the 24th July, 1912, and costs.

BRITTON, J.

DECEMBER 12TH, 1914.

SMITH v. HUMBERVALE CEMETERY CO.

*Company—Cemetery Company—Incorporation under Ontario Companies Act—Power to Sell Lands not Required for Cemetery Purposes—Reincorporation of Company under Companies Act, 2 Geo. V. ch. 31—Additional Powers—Act respecting Cemetery Companies, R.S.O. 1897 ch. 213—By-law—Petition—Order in Council—False Representations.*

Action is brought by the plaintiffs, as alleged lot-owners and shareholders in the Humbervale Cemetery Company, and on behalf of all other shareholders and lot-owners: (1) to have a certain by-law of the original company declared void; (2) to have it declared that the petition of the Humbervale Cemetery Company, under the Ontario Joint Stock Companies Act, was not authorised by the shareholders of the Humbervale Cemetery Company; (3) to have it declared that there was no right on the part of the cemetery company to sell part of their land to the defendant Winter; (4) for an injunction restraining the defendants from using the cemetery land otherwise than for cemetery purposes; (5) to compel Winter and the other defendants to restore the land to its former condition; and (6) for damages.

The action was tried without a jury at Toronto.

E. F. B. Johnston, K.C., and D. Inglis Grant, for the plaintiffs.

G. H. Watson, K.C., and G. A. Grover, for the defendants.