

cant. C. L. Dunbar, for the Homewood Institute. W. H. Hunter, for the trustees of an estate of which the applicant is a beneficiary.

BROWNE v. TIMMINS—SUTHERLAND, J.—JUNE 4.

Contract—Evidence—Failure to Establish Agreement.]—Action to enforce an agreement, not in writing, alleged to have been made on the 8th February, 1907, by which the defendants agreed to take over certain mining properties in which the plaintiffs were interested and to compensate the plaintiffs for the moneys they had expended upon the properties. The learned Judge finds, upon the evidence, that there was no such agreement as alleged, and dismisses the action with costs. I. F. Hellmuth, K.C., for the plaintiffs. G. H. Watson, K.C., and J. B. Holden, for the defendants.

REO SALES CO. v. GRAND TRUNK RAILWAY SYSTEM—SUTHERLAND, J.—JUNE 5.

Carriers—Bill of Lading—Condition — Delivery of Goods Shipped on Payment of Draft—Delivery without Payment — Action by Vendors against Carriers—Damages—Third Party—Costs.]—In 1913, the plaintiffs, doing business at St. Catharines, Ontario, were the sole selling agents for Reo motor cars in Canada, and had appointed Morris & Lewington, of Hamilton, their sub-agents for the county of Wentworth. Wangeheim, who was brought in by the defendants as a third party, made an agreement with Morris & Lewington, on the 14th March, 1914, for the delivery on or before the 1st April, 1914, to Wangeheim of a Reo special touring car at the price of \$1,400, f.o.b. Chatham, payment \$100 deposit with order and balance on delivery of car. The \$100 was paid at the time. A demonstrating car, which Wangeheim had seen at Hamilton, was sent to St. Catharines from Hamilton and overhauled, and, by arrangement between Morris & Lewington and the plaintiffs, was shipped by the latter on the 27th March, 1914, from St. Catharines by the defendants' railway, to Wangeheim at Chatham, under the terms of a bill of lading. Upon the back of the bill were the words, "On payment of draft deliver bill of lading to T. Wangeheim;" and attached to the bill of lading was a sight draft on Wangeheim for \$1,300. On learning of the arrival of the car at Chatham, Wangeheim sent for Morris, who went to Chatham; Wangeheim and Morris took out the car, Wangeheim signing a writing