

AT OSGOODE HALL

THAMES CANNING FACTORY FAIL IN ACTION AGAINST ECKARDT.

Judgment Against Canadian Northern
Ontario Ry. Co. for Damages From
Fire—Action by Allen **Enemy** Dis-
missed.

ANNOUNCEMENTS.

Motions set down for Single Court for
Monday, May 3, at 11 a.m.:—1, re Jarvis
Trusts; 2, Watson v. Jackson; 3, Adams v.
Hudson Bay; 4, Moore v. Naylor; 5, Real
Cake v. Robinson.

Peremptory list for First Divisional Court
for Monday, May 3, at 11 a.m.:—1, Black-
hall v. Roessel (to be continued); 2, re
Schooley and Lake Erie & Northern Rail-
way Co.; 3, Vansickle v. James; 4, Doel
v. Kerr; 5, Deido v. Gough, Sellers Co.; 6,
McAllister v. T. H. & B. Ry. Co.

MASTER'S CHAMBERS.

Before J. A. C. Cameron, Master.

Smith and Ryan v. Hill.—J. A. Camp-
bell, for defendant, obtained order on con-
sent discharging liens and vacating certi-
ficates of his pendens without costs.

Re Estate of J. H. Hull.—Z. Gallagher,
for applicant, obtained leave to serve
originating notice outside of jurisdiction.
Time for return limited to twenty days.

Delaplante v. Mackey.—G. H. Mulvihill,
for plaintiff, obtained order for substitu-
tional service of writ of summons.

Watson v. Garrett.—E. C. Ironside, for
defendant, moved to dismiss action for want
of prosecution. J. M. Fergie for plaintiff.
Motion dismissed. Costs to defendant in
the cause.

Wolsley Tool & Motor Car Co. v. Jack-
son-Potts.—J. M. Fergie, for plaintiff,
moved to amend judgment. J. J. Maclean-
nan for defendant. E. F. Rauey for third
party. Order made. No costs.

Anning v. Anning.—Stalker (McWhin-
ney & B.), for plaintiff, obtained order for
service of originating notice on defendant
in Salt Ash, England. Return of motion
to be on June 23 next.

SINGLE COURT.

Before Rutherland, J.

Dangler v. Hollinger Gold Mines.—G. H.
Hedgewick, for defendant, moved to dismiss
action on the ground that the persons for
whose benefit it is brought are **alien** ene-
mies of his Majesty the King. H. B. White
for plaintiff.

Judgment: It was on the argument ad-
mitted on behalf of the plaintiff that the
father and mother of deceased, Steve
Samurski, who was crushed in shaft of de-
fendant company's mine, and for whose
benefit this action is brought, are subjects
of the Emperor of Germany and reside in
Germany. They are undoubtedly **alien** ene-
mies. The administrator can have no high-
er right than those for whom he has
brought the action. If I could see my way
to do so, I would prefer to make an or-
der staying the action for the reason that
if it is dismissed the statutory period may
possibly run and so put an end to the ac-
tion. I think, however, I must hold that
the action must be dismissed with costs.

TRIAL COURT.

Before Middleton, J.

Thames Canning Factory v. Eckardt.—J.
M. Pike, K.C., for plaintiff. O. L. Lewis,
K.C., for defendant. Action to recover
\$900.94, price of 700 cases of beans alleged
to have been sold and delivered by plain-
tiff to defendant.

Judgment: As soon as the goods arrived
at defendant's warehouse the defective con-
dition of the beans was *re-voce*, complaint
made, and the goods rejected. Mr. Thomas,
who succeeded Mr. Somerville in his agency,
quite agreed that the complaint was just-
ified, and from the evidence of the prac-
tical men called before me I am of the
same opinion. I determine that the goods
were not of the stipulated quality, or in
accordance with the contract; that they
were not merchantable as first-class goods,
nor fit for the purpose for which they were
sold; that the right of inspection existed
at the time the goods were inspected in
the warehouse, and that upon inspection
they were at once rejected for *adequate*
cause. The action therefore fails. If I
should be in error in this, I would assess
the difference in value between goods con-
tracted for and goods supplied at \$250.

Action dismissed with costs. Ten days'
stay.

Allen v. Canadian Northern Ontario Ry.
Co.—G. F. Shepley, K.C., and F. C. Carter
for plaintiff. A. J. Reid, K.C., for defend-
ants. Action to recover \$5,000 damages al-
leged to have been sustained by plaintiff's
property through fires set out by servants
of defendant company, which were left
unwatched and unguarded, and allowed to
spread to plaintiff's property. Judgment for
plaintiff for \$1,000 and costs. Ten days'
stay.