

It is true that the word "trust" was not used, but the cheque was left on the condition that the deed should be delivered, and that condition was not complied with, in a reasonable time, and never in its entirety, for when the cheque was offered on 20th May, defendants assumed to annex the term of Mr. Mills's right to recover from plaintiff any balance of purchase money, interest, taxes, or rent, or otherwise, owing to Mills. On 10th May Stuart had formally made the demand which he had before made verbally for the redelivery of the cheque.

I think, therefore, that plaintiff must succeed upon this branch of the case, and it is unnecessary to go into other matters which were argued.

An application was made by defendants for permission to put in a copy of the letter from W. D. Moss to Stuart and Gunn dated 14th March, 1905. In view of Mr. Moss's affidavit that changes were made in the letter as originally written, before it was given in to Stuart, and that in the letter-press copy it is impossible to read the letter containing these changes, and he is unable to tell what these changes were, and unable to tell what the letter written to Mr. Stuart contained, I do not admit the copy put forward as evidence; but I assume that the copy as put forward is in a form as favourable to defendants as it could be, and it would not, if it were in evidence, affect my judgment.

There will, therefore, be judgment for plaintiff for \$2,153.05, with interest thereon from 11th March, 1905, and costs of action.

APRIL 28TH, 1906.

DIVISIONAL COURT.

MASSEY-HARRIS CO. v. DE LAVAL SEPARATOR CO.

Discovery—Examination of Officer of Defendant Company—
Libel—Privilege—Names of Persons to whom Impeached
Document Sent—Sources of Information.*

Appeal by defendants from order of MABEE, J., ante 59, requiring defendants' manager to attend at his own expense