

THE  
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BRITTON, J.

MAY 28TH, 1907.

TRIAL.

BOUCK v. CLARK.

*Sale of Goods — Absence of Express Warranty — Implied Warranty — Quality of Hay — Opportunity for Inspection — Acceptance — Estoppel — Division Court Judgment — Evidence as to Opinion of Quality.*

Action for breach of warranty of the quality of hay purchased by plaintiff from defendant.

R. A. Pringle, Cornwall, and J. A. C. Cameron, Cornwall, for plaintiff.

I. Hilliard, Morrisburg, and C. H. Cline, Cornwall, for defendant.

BRITTON, J.:—The plaintiff is a dealer in hay and feed, doing business in the village of Winchester, and the defendant is a farmer residing in the township of Matilda. The plaintiff sought the defendant in the autumn of 1906, and says he purchased all the hay that defendant then had. It is set up in the statement of claim that the hay so purchased was to be good merchantable hay and of No. 1 quality. In his evidence the plaintiff said the hay was to be good green hay well saved.

The main facts are hardly open to question. The defendant represented that he had, in the autumn of 1906, about 200 tons of hay. It was in 3 barns of the defendant, and the plaintiff visited two of these barns, viz., the south-west and the south-east barns—he did not go to the north barn or see the hay therein, at the time he agreed to pur-