I can find nothing in the ingenious argument of Mr. Phelan that leads me to think that the judgment is wrong. The only clause, the reason for which is not clear, is that excluding from the cost the excess of additions over withdrawals. But whatever standard of cost is adopted the result will be the same, and I would reject as unsound the argument that if the additions are to be taken at actual cost, the omissions or diminutions must therefore be rated at an artificial standard before being deducted. The only reason for allowing the $816.05 in addition to the $11,374.74 (making up the item of $12,190.79) is that it is work actually done and therefore included in the total of $115,922.08.

On the reference, the Master, in addition to determining the actual cost of the items $22,130.36 and $10,629.70, as directed in the judgment, should ascertain the amount of the appellant's wages and add it to the cost as per the contract. With this slight variation, the judgment should be affirmed with costs. The formal judgment does not contain the direction that before the reference is proceeded with each party is to name a sum it is willing to give or receive. That should be embodied in the order on this appeal.

HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, and MAGEE :—We agree.

SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION. JUNE 8TH, 1914.

LANGLEY v. SIMONS FRUIT CO.

6 O. W. N. 449.

Bankruptcy and Insolvency—Assignment of Goods—Assignor in Insolvent Circumstances — Lack of Knowledge of Insolvency by Assignee—Cash Advance — No Intent to Defraud or Prefer—Transaction Upheld.

FALCONBRIDGE, C.J.K.B., 26 O. W. R. 79; 6 O. W. N. 104. *held*, that an assignment by a firm in insolvent circumstances of certain goods to a firm which did not know of such insolvency, in return for a money advance, without any fraudulent or preferential intent, was valid.

SUP. CT. ONT. (1st App. Div.) affirmed above judgment.

Appeal by plaintiff from a judgment of HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B., pronounced 16th March, 1914, after the trial of the action before his Lordship, sitting