

BROWN v. VALLEAU—FALCONBRIDGE, C.J.K.B.—Aug. 31.

Contract—Money Advanced — Acknowledgment—Promise to “Work off” Debt.]—Action by the Canadian representative of commission merchants in Liverpool, Glasgow, and London, to recover \$4,963.25, a balance alleged to be due by the defendant, a dealer in apples at Toronto, on account of advances made by the plaintiff for the purchase of apples. The defendant signed an acknowledgment admitting a balance at his debit of \$4,153.25. The acknowledgment did not state that the debt was not to be paid by the defendant, but only that it was to be discharged by the defendant working for the houses represented by the plaintiff. The defendant promised “to work with the company next season and until the above debt is worked off.” Held, that that did not amount to a discharge; and in any event the onus would lie on the defendant to shew that he was always ready and willing to “work off” the debt, but that he was prevented by some act or default of the plaintiff or of his principals; and that onus he had not met. As to the remainder of the plaintiff’s claim, the defendant should have the benefit of the doubt. Judgment for the plaintiff for \$4,153.25, with interest from the 7th April, 1908, and costs. Counterclaim dismissed with costs. G. Drewry, for the plaintiff. F. E. Hodgins, K.C., and W. H. Hodges, for the defendant.

CORRECTION.

On p. 1135, ante, 15th line from top: insert “no” before “higher.”