in cash, in the proportion of one-seventh of the whole amount, toward the maintenance and repair of a dyke and aboideau erected prior to the time of the purchase for the protection of the land against the sea. In an action brought by plaintiffs claiming under R. against defendant claiming under T. R. to recover a proportion of the cost of rebuilding the aboideau it appeared that the dyke in question had never been brought under the and Marsh Lands, but that the provisions of the Act had been followed in operation of the Act, R.S. c. 42, of Commissioners of Sewers and Dyked relation to the calling of meetings of proprietors, the summoning of proprietors to perform work, and the apportionment of the cost of such work among the proprietors according to their acreage.

There was some evidence of the existence of an agreement signed by T.R. having reference to his liability to contribute towards the keeping up of the dyke and aboideau, but at the time of the commencement of the action the agreement had been lost, and there was no evidence to shew the exact contents of the agreement.

Held, that after the lapse of time in view of the position of the parties and the necessity of the work for their protection, the requirements of the Act and the facts shewn in relation to payments made and work done, there was evidence from which to infer the existence of an agreement touching the keeping up and repair of the dyke and aboideau, constituting a covenant running with the land by which defendant was bound.

Held, also, the judge of the County Court having found that the amount which defendant was required to pay was not excessive, that such finding was supported by the evidence and should be affirmed.

W. A. Henry, for appellant. *H. W. Rogers*, for respondents.

Full Court.] NACNUTT v. SHAFFNER. [April 13.

Principal and agent—Goods disposed of by agent in violation of authority—Notice to party taking—Bona fides—Ordinary course of business—Finding set aside and new trial ordered—Factors Act, c. 11, s. 2, sub-s. 1, held inapplicable.

D. was entrusted by plaintiffs with a number of carriages for sale under an agreement in writing, under the terms of which D. was required to sell only to responsible parties and to take in payment cash or promissory notes. The agreement contained the following provision: "Notes of the purchasers only will be taken for goods in this contract; old machines, horses or trades of any kind are entirely at the risk of the agents, and they will be held strictly responsible for all such notes."

D. disposed of two of the carriages to defendant at different times. In the first case the consideration was goods out of defendant's shop, to be supplied to D. for the use of his family. In the second case the consideration was part cash and part a waggon of defendant's taken in exchange.