

thing necessary for this, the supreme object of the contract, must be done.

Contract  
Express  
Coal to be  
suitable

I think, as a matter of law, that the contract of October 20th, on its face, is a contract to supply coal to the Steel Company for the purpose of operating an iron and steel plant. I do not have to read into it any implications. I have only to make the necessary and inevitable deduction that coal to operate an iron and steel plant, must be coal with which such a plant can be operated, for the object and purpose of the coal contracted for is expressly stated in the contract. Between November 1st and 9th, the Coal Company furnished in large quantities coal not reasonably free from stone and shale, and incapable of operating an iron and steel plant, and while they were mining plenty of coal fit for such purpose, they failed to furnish sufficient quantity of such coal to meet the requirements of the contract. The Coal Company thereby committed a breach of the contract, and are responsible to the Steel Company for all the loss and damage which result from this breach. I think the Steel Company was justified in refusing to take in large quantities of the unsuitable coal furnished by the Coal Company between November 1st and November 9th, and that such refusal did not constitute a breach of the contract, and I think the contract is in full force.

Breach by  
Coal Co.

#### AS TO REMEDIES.

Remedies  
Assessment  
of damages

1. As to the failure to supply sufficient coal during August, September and October, I think a referee should be appointed who should ascertain how much coal it was necessary for the Steel Company to purchase in those three months to operate their works, and the cost of such coal delivered at their works, and the difference between such cost and the contract price, \$1.24, should be paid by the Coal Company to the Steel Company.

The referee should also enquire into the question of any damages which the Steel Company sustained by reason of non-delivery of sufficient coal in August, September and October, apart from the additional cost of coal.

2. The referee should also enquire into the cost of coal obtained by the Steel Company, since November 1st, over and above the contract price, \$1.24, and all sums paid in excess