

with a profit, cannot avail the defendants. Fortunately for the plaintiff, the cattle reached the market at a favourable time, and when good prices were ranging; but it seems very clear that, if they had been in the condition and of the weight they should have shewn, the plaintiff would have realised a considerable sum beyond that which he netted. His loss in this respect was the direct consequence of the defendants' breach of contract, for which compensation should be made.

The next step is to ascertain the basis and amount of the compensation. The plaintiff should be allowed for any excess of outlay for hay or other feed occasioned by the want or insufficiency of supply of slop. He should also be allowed for the deficiency in condition and weight, at such fair market-price as was obtainable at the time, less the payments to be made under the agreement up to the date of the fire. As he is claiming to be placed in the same position as respects the condition and weight of the cattle as if the defendants had supplied the slop, so he must place the defendants in the same position as regards payment.

An examination of the accounts rendered by the defendants to the plaintiff shews that the latter did pay the rental at the stipulated figure of \$2,550 per month in advance up to the 15th May, 1907, i.e., for a period of three days beyond the date of the fire. The rental or monthly payment was to be made in advance. The defendants were in the habit of paying wages and for hay purchased for the plaintiff, and in other ways making advances on his account, and they appear to have rendered semi-monthly accounts or statements, and made drafts upon the plaintiff monthly for the amounts shewn at the foot, which were met by the plaintiff.

Among the items in the statement rendered to the 15th April, 1907, is that of "rental to May 15th, \$2,550," the total amount of the statement being \$4,421.12. The draft for this sum was paid by the plaintiff . . . thus covering the payments for the full supply of slop at the rate of \$2,550 per month up to the date when the occurrence of the fire ended the supply. This left nothing remaining but to ascertain the amount of the difference between the \$2,914.28 due per month and the \$2,550 paid per month, and the deficiency in weight and the price per pound and the additional outlay (if any) in respect of hay and other feed. But at the trial the matter was complicated and confusion created by the production of a statement rendered to the plaintiff by the defendants in April or May, 1908, a year or so after the fire.