

It was not contemplated by the parties that the defendants, having a lease of the mill premises for about 3 years only, were to put them in the condition of a new mill, equipped with new or what was equal to new machinery; and, in the circumstances, the Court should not concede to the plaintiff the unqualified right to such alterations, reparations, and installations of machinery as he might demand, but only such as would put the premises in a proper condition for a period not exceeding 3 years.

The defendants to some extent had made default in putting the mill into this condition; and to that extent were liable in damages. The plaintiff's claim was for expenditures beyond this limit; and some of the expenditures claimed for here were in excess of anything covered by the covenant. Again, a part of his claim was in respect of labour in the installation of machinery and equipment supplied by himself, and afterwards destroyed by fire.

There should be judgment for the plaintiff for \$900 without costs.

RE JACQUES DAVY & CO.—ORDE, J.—JAN. 13.

Contract—Sale of Goods—Terms of Bargain—Letter and Acceptance—Evidence to Vary Terms—Inadmissibility—Ascertainment of Price—Issue—Findings of Fact—Costs.—Trial of an issue before ORDE, J., as Judge in Bankruptcy, sitting in Toronto. ORDE, J., in a written judgment, said that the issue was between the F. A. Fish Coal Company Limited and J. P. Langley, trustee in bankruptcy for Jacques Davy & Co., a partnership firm which had made an assignment under the Bankruptcy Act, 1919. The issue arose out of a certain contract between the coal company and the partnership. On the 18th May, 1920, the coal company wrote a letter to their own solicitors stating the terms upon which they were willing to purchase from the partnership certain lands then under lease to the coal company. One of the terms was, the delivery to the vendors of "coke stored at the foot of Princess street . . . as per attached bill and receipt." The letter also contained this paragraph: "Coke turned over to Jacques Davy & Co. as of the morning of May 19th at inventory weights less 5% to cover shrinkage, less 30 tons of screenings already taken out of the coke pile, said 30 tons of screenings invoiced at \$5 per ton on the ground in yard." The proposal was not accepted by the partnership until about the 5th July, when one of the partners wrote upon the letter the words "accepted as of May 19th, 1920," with the signature of the partnership. No bill or receipt was attached to the letter, but it was alleged that a statement dated the 19th May, 1920, produced from the custody of the trustee,