

and that the purchaser of the cash wheat shall pay the vendor 3 cents a bushel more than the vendor pays him for the New York July wheat.

Plaintiffs further ask me to find that in a contract of this character it is the duty of the purchaser of the cash wheat to deliver the New York July wheat to the vendor, either through the purchaser's own broker or by giving the vendor an order to buy in the New York market on the purchaser's account; that the delivery of the New York July wheat in one or other of these ways is essential in order to fix the price of the cash wheat; and that there is no other recognized method of fixing the price of cash wheat but by delivery of the New York July wheat.

Further correspondence passed between the parties, and on 21st May defendants sent a telegram to plaintiffs as follows: "Can you give us Rosedale next week 3 over New York July one hard half under two northern say half each, \$25,000 cash, balance 3 weekly payments?" To which plaintiffs replied by telegram on 22nd May: "Referring to your telegram of 21st Rosedale loads for Midland cargo sold trying get her next trip about first of next month or Algonquin about 29th of this month. Price one hard all right but No. two northern $\frac{1}{2}$ too low, can give about two-thirds hard. I will telegraph when hear from boats. R. H. Crowe."

And on the same day plaintiffs telegraphed as follows: "Referring to telegram, we do offer, subject to your immediate reply by telegram, one cargo about 80,000 part No. one hard wheat 3 over part No. two Manitoba northern wheat a quarter under New York July, cif. Goderich, shipment in 10 days, terms \$25,000 sight draft and balance weekly payments as suggested, interest and insurance Goderich paid by you as before. If you wish will fix price to-day, one hard 82, northern 78 $\frac{3}{4}$. Telegraph immediately whether you accept or not. Can give you more two northern than one hard. G. R. Crowe."

And also wrote as follows: "Had your telegram this morning (dated yesterday) asking if we could give you some one hard on the steamer "Rosedale" at 3 over New York July next week, and some two northern at $\frac{1}{2}$ under, and I have responded by two telegrams to-day. At the time of writing we have offered you a cargo of about 80,000 bushels, the one hard at 3 cents over New York July, and the two northern at $\frac{1}{4}$ cent under New York July, cif. Goderich, and have said