

September) he sold the logs at the switch and gave no notification to plaintiff of what he had done or that he did not intend filling the contract from some other source.

No one ever heard of goods being supplied to an intending purchaser which were to be to the "satisfaction" of the vendor, or that an article to be manufactured was to be manufactured to the "satisfaction" of the manufacturer.

Plaintiff said that by the words "if satisfactory" he meant that if he got the hemlock cut so as to be satisfactory to himself he (plaintiff) was to have it. As the hemlock at Bracebridge was to be cut to the order of plaintiff, and as the hemlock at the switch was included in the offer, that likewise was to be cut to his order, i.e., cut to his satisfaction.

The effect of the offer made by plaintiff was, I consider, in no way varied by the words "if it is satisfactory" in defendant's acceptance.

Defendant agreed to sell all lumber that would be cut from the logs at \$8.75 a thousand, and nothing turns on the words "to be cut." The contract is of a like character to that of a mill-owner selling the whole output of his mill for the season at a named price per thousand feet.

Hemlock lumber advanced in March, 1903, and \$11 per thousand was then paid Mr. Bawden for hemlock f. o. b. at the mills. The plaintiff paid higher prices, but I accept Mr. Bawden's statement as being a fair average price.

Plaintiff is entitled to recover \$2.25 per thousand on 402,000 feet. . . . \$904.50.

I find that when plaintiff purchased he told defendant he was purchasing on his own account, and that Laidlaw & Co. had no interest in the lumber, although he assigned his interest in lumber at Bracebridge to Laidlaw & Co., from whom he received a profit of 75 cents per thousand.

Then as to the counterclaim. Defendant claimed from plaintiff \$157.80 and interest from 1st March, 1902, balance owing for lumber sold by defendant to plaintiff on 12th April, 1902. . . .

This was part of the Bracebridge cut, and according to defendant's evidence all the lumber that was cut and piled in the yard at Bracebridge was paid for by the end of March, 1902, and all shipped out. After that plaintiff ran his mill for two days, and the counterclaim was for two days' cut of lumber which defendant stated was put in piles, and each pile marked L.A.D. & Co. as indicating L. A. Delaplane & Co., under which name plaintiff was carrying on business.

This lumber was burned in a fire on defendant's premises on 20th April, 1903.

On 12th June, 1903, defendant wrote plaintiff; "According to my books, there is a balance coming to me of \$157.80,