corn, and expressed their intention so to do, and had they carried it out the corn would have been preserved in good condition. . . . None of these employed by defendants were experienced in the work of taking care of grain in an elevator except one, and, although directions were given by plaintiffs in their telegrams and letters of May 22nd, 26th, and June 2nd and 3rd, to keep the corn turned, which could be done at the rate of 6,000 or 8,000 bushels an hour by transferring from one bin to another, and for which the company had ample facilities, this duty was neglected, and it was not turned over between May 22nd and June 4th. The measure of damages is the difference between what the corn was worth, and would have realized at Prescott on June 15th, had it been in perfect condition, viz., 27 cents a bushel, and what it was worth there and could have been sold for in its damaged condition.

Leitch & Pringle, Cornwall, solicitors for plaintiffs.

F. J. French, Prescott, solicitor for defendants.

ROBERTSON, J.

JANUARY 27TH, 1902.

TRIAL.

HARRIS v. BANK OF BRITISH NORTH AMERICA.

Contract—Delivery of Deed in Escrow—Non-performance of Condition—Option—Trust.

Action tried partly at Barrie and concluded at Toronto, brought to recover $3,122.50.

J. K. Kerr, K.C., and R. D. Gunn, Orillia, for plaintiff.

John Greer, for defendant bank.

W. H. Blake, for defendant Trading Corporation.

ROBERTSON, J.—I find as facts, on the evidence, that plaintiff in all respects fully and completely performed his agreement, dated June 23rd, 1898, for the sale of certain mining properties to A. J. Mangold, acting for defendant corporation, after inspection of and examination of title, etc., to the claims; that after inspection and putting a man in to work the claims as he saw fit, and paying five per cent. of the purchase money, Mangold requested plaintiff to execute bills of sale and deposit them with the manager of Bank of British North America, Dawson Branch, accompanied by a letter to him dated October 8th, 1898:—"We beg to deposit with you this day two bills of sale from R. A. Harris to A. J. Mangold . . . the said deeds to be