

Full Court.]

MATTINSON v. HEWSON.

[April 5.]

Contract for work and labour—Defence of defective workmanship—Abatement of price—Jurisdiction of justices in respect of.

Plaintiff sued before justices of the peace for work done and materials supplied in connection with the erection of an addition to a cottage owned by defendant. The defendant relied upon certain defects in the workmanship.

Held, 1. The implied contract that the work should be done in a workmanlike manner was not one going to the essence of the contract, but defendant was entitled to an abatement of the price on account of the defects shewn to exist.

2. If the magistrates had jurisdiction in respect to plaintiff's whole claim they had jurisdiction to consider how much the price should be abated for defective workmanship.

W. B. A. Ritchie, K.C., for appellant. Rogers, K.C., for respondent.

Full Court.]

RE VICTOR WOODWORKS.

[April 5.]

Company—Organization—Conditional subscription to stock list—Right to recover amounts paid.

The project for the establishment of a company for the purpose of carrying on building operations involved the acquisition of the works of an existing company and the extension of the business by providing additional capital, buildings and machinery, the holders of stock in the existing company to surrender their stock and accept stock in the new concern. The authorized capital of the proposed company was fixed at \$100,000 and the paid-up capital at \$50,000.

A subscription list was opened and was signed by a number of persons for an amount something less than the proposed paid-up capital. A committee of subscribers to the new stock was appointed to act with the directors of the company in making arrangements with the company with a view to the immediate commencement of the new operations and a call of 25 per cent. on the stock subscribed was paid by 27 out of 49 subscribers.

After certain liabilities had been incurred for materials, machinery, etc., the project was abandoned and a petition was filed to have the persons who paid the call made upon the stock, made contributories in winding-up proceedings.