

HIGH COURT DIVISION.

LATCHFORD, J.

FEBRUARY 26TH, 1917.

\*GREENBERG v. LAKE SIMCOE ICE SUPPLY CO.

*Contract—Formation—Correspondence—Quotation of Prices for Supply of Coal—Non-acceptance—Absence of Mutuality of Obligation—Fraud—Right to Rescind Contract (if Made).*

An action for damages for breach of an alleged contract to supply the plaintiff with coal.

The action was tried without a jury at Toronto.

L. M. Singer, for the plaintiff.

B. N. Davis, for the defendants.

LATCHFORD, J., in a written judgment, said that on the 25th August, 1916, the defendants, dealers in coal as well as ice, wrote to the plaintiff, a retailer of coal, a letter in which they said: "We beg to confirm our quotations on coal taken by you . . . namely, \$6.65 per ton . . . for all coal taken up to August 31st, 1916, and \$6.75 per ton for all coal taken from Sept. 1st to April 30th, 1917." The prices stated were to be subject to increase if freight charges increased, and to other terms and conditions not material to be considered. No quantity was agreed to be supplied; and on the part of the plaintiff there was no undertaking or agreement to purchase from the defendants any coal whatever.

After coal had been supplied to the plaintiff to the extent of about 40 tons, it transpired that the plaintiff had attempted to bribe the clerk in charge of the scales at their Florence street yard to issue false weight-tickets to him, and thus defraud the defendants for his benefit.

The defendants made a careful investigation; and, when convinced, as they were on ample evidence, that the plaintiff had endeavoured to perpetrate a gross fraud upon them, they refused to supply him further with coal.

The defendants had the right, at any time after the date of the letter, to refuse, with or without cause, to supply the plaintiff with coal. The letter contained no more than a quotation of prices. It was not a contract. The plaintiff was not under the slightest obligation to purchase a single ton of coal from the defendants. There was no consideration from him to the de-