

completely exonerate the other defendants. There is nothing before me to shew that there was argument or contention on behalf of the Erie company that they were not liable if the plaintiffs were, upon the law and facts, entitled to recover damages for the causes of action mentioned.

The objections by the defendants on this appeal are, first, as to the meaning of the word "reservation" implied in the words "reserve gas enough" in the agreement, and as to the effect of these words in creating a liability against the defendants. I am of opinion that the Master is right in the conclusion arrived at by him, and for the reasons given by him, as to the question of liability. Whatever variety of meaning may be given to the word "reservation," and however it may be distinguished from the word "exception"—where such words are used in a conveyance—it was clearly the intention of the parties to this agreement that the plaintiffs should get from the gas wells being sold to the Erie company "gas enough to supply the plant" then operated or to be operated by the plaintiffs on their property. The parties contracted in reference to an existing state of things. The plaintiffs were, at the time of the agreement, operating a plant in carrying on their business, and in order to carry on this business they required gas from the wells owned by them and being sold, and it was gas from a known source of supply, and obtained and used by plaintiffs in a way well known to the Erie company, that by this agreement the plaintiffs intended to reserve the right to get, and that the Erie company were willing the plaintiffs should get. What was reserved by plaintiffs was gas of value for plaintiffs' purposes—the plaintiffs had a right to it—the defendants interfered with that right, and so are liable. If the words inserted were not intended to create, or do not in fact create, a liability for any interference with plaintiffs' right, the Court above would have varied, or set aside, or qualified the finding of the trial Judge, and there would have been no reference as to damages. With the document of sale, as it is since its reformation, I am of opinion that it was not open to the Master, and it is not open to me on appeal, to say that it does not operate as a covenant or agreement in plaintiffs' favour, or that it is void because there can not be a reservation of gas, or because the reservation is void for vagueness.

Apart from feeling myself bound by the judgment of reference, I feel no difficulty in holding that what was in-