

accept the 3 per cent. commission, resented defendants' advice about being more firm, tendered his resignation as agent, and drew for amount of commission. The defence, in my opinion, fails as to this 2 per cent. commission deduction from the Krug order.

(3) As to samples. Plaintiff by his letter of 1st September, 1903, asked for advertising samples similar to plates 969, 971, and 973, and anything else in that line that defendants might think of that would help, and either deduct the price of these from commissions, or draw for them at sight. I confess to a little difficulty in understanding why plaintiff offered to pay. Samples of goods sold by agents are not usually paid for by agents. They remain the property of the principals, and would only be charged as a matter of keeping a record of them, and of having them accounted for. From the correspondence and what has taken place between the parties, I do not think that plaintiff expected to pay for these samples or that defendants intended to exact payment for them. Defendants sent a large amount, most of them absolutely useless to plaintiff as a traveller, for the purpose of assisting him in making sales—all admittedly of no commercial value. They were not intended for sale, and could not be sold except possibly for a trifle. Defendants sent invoices of these samples to enable plaintiff to have the goods pass the customs, and duty was paid on them by plaintiff, and plaintiff also paid the freight, but defendants afterwards refunded to plaintiff without question the amount of freight and duty so paid. Plaintiff says he did not expect to pay for these samples, and that in writing the letter mentioned, he was only "jollying" defendants. That is no answer, and I hold plaintiff to the fair meaning and intent of that letter. There was no warrant or authority in that letter to defendants to send the greater part of such samples as were sent. That letter in part reads: "I am also after the brewers and distillers and hope to get some orders from them. Their advertising "fad" just now is finger or push plates of bevel plate, about 3x7 or 3½x8½, with their names and business thereon, with 4 holes for screws to fasten up, and similar in design to Nos. 969, 971, 973. If I had samples of your plates here I could get orders easily, so kindly furnish me with all the information possible, together with some advertising samples, similar to 969, 971, 973, and anything else in that line you can think of that