

The defendants were clearly entitled to a credit of 6 per cent. discount off the face of the invoices. This was the bargain and the course of dealing. These trade discounts are agreed to by reason of the volume of business, and per se have no reference to the time of payment. A vendor cannot ex post facto create a forfeiture for delay.

As to charges for exchange, it appeared that before the date of the earliest orders and invoices produced there was an established course of dealing between the parties to the action, and the endorsement made by the plaintiffs' manager, Bridges, upon the invoices filed, "terms as before," meant that the established method of dealing was to be continued. This was common ground.

The orders for the goods were endorsed with a memorandum, "This order is taken subject to confirmation and acceptance by the company at Lynn, Mass.;" and counsel for the plaintiffs argued that this made the contract a foreign one, and that the rights under it—specifically as to the question of exchange—were to be determined by the law of Massachusetts.

In regard to exchange, the question is not, where is the money payable? but, what kind of money is to be paid? This is a question of fact, to be determined by the evidence put in at the trial.

The learned Judge finds that the goods were sold and accepted upon the understanding and agreement that they were to be paid for in Canadian money.

The defendants were not liable for the exchange charges claimed; and, crediting the 6 per cent. trade discount and the \$910 mentioned above, the amount which the defendants had paid into Court was the full amount owing to the plaintiffs, except interest from the date of the writ to the time of payment into Court, \$2.04.

The plaintiffs should have costs of the action up to the time of the payment into Court, and the defendants the costs of defence subsequent to that time, both on the Supreme Court scale. The plaintiffs' costs and the \$2.04 interest should be set off against the defendants' costs pro tanto, and the balance found owing to the defendants should be paid out of the money in Court. Subject to this, the money in Court, with its accrued and accruing interest, should be paid to the plaintiffs.

*Judgment accordingly.*