

from the patentee to manufacture for six years the "Mingay" balls. While they were such licensees they manufactured the "Ace," constructed mechanically in the same way as the "Mingay" balls, but with a core consisting of 85 per cent. water and 15 per cent. of gelatine. The House of Lords (Lords Loreburn, L.C., and Lords James, Gorrell and Shaw) held that the "Ace" was an infringement, the plaintiff's specifications including not merely liquids like water, but also sticky substances like gelatine.

CONTRACT — CONSTRUCTION — COAL — "REASONABLY FREE FROM STONE AND SHALE"—BREACH OF CONTRACT—UNSUITABILITY OF COAL FOR PURPOSES REQUIRED—DAMAGES—SPECIFIC PERFORMANCE.

*Dominion Coal v. Dominion Iron & Steel Co.* (1909) A.C. 293. This was an appeal from the Supreme Court of Nova Scotia. The action was brought by the Steel Company for breach of contract by the Coal Co. to deliver coal for a period of 90 years. The coal contracted for was, as the court found, to be suitable for the plaintiffs' manufacturing purposes and was to be "reasonably free from shale and stone," and was to be taken from a seam to be designated by the plaintiffs. The defendants had tendered coal which the plaintiffs claimed was unfit for the purpose required, and not reasonably free from stone and shale, and with an excess of sulphur, and which they accordingly rejected. The defendants having refused to deliver any other coal the action was brought, and judgment given in the plaintiffs' favour for specific performance of the contract for the unexpired period of 86 years. From this judgment the defendants appealed. The Judicial Committee of the Privy Council (Lords Robertson, Atkinson and Collins and Sir A. Wilson) held that the words "reasonably free from stone and shale" did not, as the defendants contended, mean that the coal was to be as reasonably free from stone and shale as it could be made by picking out stone and shale; but that it meant that the coal was to be reasonably free from stone and shale irrespective of the method by which it might be made so. and that coal carrying in laminae permeating the lumps, stone and shale, which could not be picked out, was not reasonably free from stone and shale within the meaning of the contract; further, their lordships held that as the effect of the contract was that the defendants were bound to deliver coal suitable for the plaintiffs' purposes as manufacturers of steel, etc., the defendants had committed a breach of