

What the defendants said as to the intention with which they wrote the letter was immaterial. The question was, "What do the words mean, either standing alone or construed in the light of the circumstances in which they were used?"

Reference to Canadian Dyers Association Limited v. Burton (1920), 47 O.L.R. 259.

After some hesitation, the learned Judge said, he had reached the conclusion that the words, "we are prepared to accept your offer," used as they were in the defendants' letter, did not amount to an acceptance. Both the plaintiff and the defendants were accustomed to dealings in lumber and well knew the necessity for a complete written record of any contract; and this circumstance seemed to demand that the words used by them in their letters should be construed almost with the strictness which would be applied in the case of a formal document; and in the interpretation of a formal document a clause to the same effect as the whole sentence quoted from the defendants' letter would be not treated, unless in very exceptional circumstances, as meaning the same thing as "we accept your offer," etc. The words "are prepared to" must have been inserted for some purpose, and it was difficult to give any meaning to them unless the whole sentence was taken to amount to a statement merely that the defendants' intention was to accept the offer at a future time if something happened in the meantime.

Again, if the letter amounted to an acceptance upon condition, the plaintiff must shew strict performance of the condition. If the condition was that the banker should be satisfied that the lumber would be paid for *as per the conversation between the parties*, it would not be possible to find, on the evidence, that it was fulfilled. But it was unnecessary to decide this second point.

*Action dismissed with costs.*

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ORDE, J.

DECEMBER 31ST, 1920.

CITY OF STRATFORD v. ONTARIO ASPHALT BLOCK CO.

*Contract—Sale and Delivery of Paving Blocks—Covenants as to Quality of Blocks—Breach—Damages—Retention of Moneys as "Drawback"—Application upon Damages—Bonds of Guaranty Company—Security for Payment of Damages—Liability—Declarations—Interest—Costs.*

Action by the Municipal Corporation of the City of Stratford against the Ontario Asphalt Block Company for damages for the alleged breach of two contracts made respectively in 1905 and