

KELLY, J.:—The only point in dispute is as to the length of the term of the mortgage which was to be given to the vendor for part of the purchase-money; and, by reason of this, the defendant contends, a valid contract was not entered into.

The plaintiff signed, and delivered to the agents with whom the property had been listed for sale, an offer to the defendant to purchase; and McLaren, a clerk from the agents' office, submitted it to the defendant, who returned it on the following day and gave instructions for changes in the price, the amount of cash payment, the amount of the mortgage, and as to making the instalments of principal and interest payable yearly instead of half-yearly.

These alterations were made by McLaren, and the offer was again taken by him to the plaintiff, who initialled the alterations. All this took place about the 26th and 27th April. The plaintiff and McLaren both say that the defendant signed the acceptance after these changes were made, and before they were initialled by the plaintiff, and McLaren adds that the defendant initialled them at the time he signed the acceptance. The plaintiff also says that, when the offer was brought back to him to have the alterations initialled, they had been initialled by the defendant. The defendant, on the other hand, says that he did not sign the acceptance until after the plaintiff had initialled the alterations; and that, just before signing, he himself further altered the offer by making the term of the mortgage three years instead of five years.

His contention now is, that at no time did he agree to a five-year term; and that, not having signed the acceptance until after he made the alteration from five years to three years, which alteration, he maintained, was made after the plaintiff had initialled the other changes, he and the plaintiff were never agreed upon that term.

In this I think he is mistaken. My view is, that the change from five to three was made after both parties had signed. It may be that the defendant afterwards wished to have a three-year term, and he may have made the alteration in that respect with a view to having the plaintiff agree to it; but that, under the circumstances, could not have assisted him, for the alteration was so indistinctly made as to render it almost, if not altogether impossible for any one, on the closest examination of the document, to determine whether in its present condition it reads five or three years—it can as readily be read one way as the other.

But, whatever question there may have been of the defendant's right to object on the ground of want of agreement on the