

the first part reserve gas enough to supply the plant now operated or to be operated by them on said property."

A reference was directed to the Master at Welland to ascertain and report what damages (if any) the plaintiffs had suffered by reason of the action of the defendants in not permitting them to take gas for the supply of their works operated by them on the property referred to.

The judgment of the trial Judge was reversed by the Court of Appeal, but was restored by the Supreme Court: see 29 S. C. R. 591.

The reference then proceeded in the Master's office, and he has reported in substance as follows:—

1. That from 15th November, 1894, to 1st August, 1902, the plaintiffs were entitled to have their works, operated by them on the property mentioned in the agreement, supplied with gas from the gas mains of the defendants the Provincial Natural Gas and Fuel Company, and that they were prevented by the last mentioned company from getting such gas.

2. That by reason of the action of the last mentioned defendants the plaintiffs were obliged to consume their own natural gas.

3. That the plaintiffs did consume 911,722,303 cubic feet of gas.

4. That this gas was worth 12½c. per thousand cubic feet, and on that basis he found \$113,965.29 as the amount which the defendants the Provincial Natural Gas and Fuel Company should pay.

The finding of the learned Master was only against the Provincial Natural Gas and Fuel Co., as, in his opinion, the other defendants (the Erie company) were not liable, and he so found "notwithstanding the fact that no question of separate liability was raised" before him.

The Provincial Natural Gas and Fuel Co. appeal from this report on many grounds, and the plaintiffs appeal so far as the report is in favour of the Erie County Natural Gas and Fuel Co.

The plaintiffs should succeed in their appeal. The judgment is against both defendants, and the reference was to assess damages, if any, against both. The defendants made common cause, and as it appears to me, it was not open to the Master, having found damages, to limit the plaintiffs' recovery to the defendants the Provincial company, and to