

the company thereafter to have controversy concerning the expense of loading.

When it is borne in mind that this machine weighed between thirty and forty tons and that McLeod had on apparatus at hand which would facilitate loading, the seriousness of the controversy is clearly apparent.

Mr. Haverson argued the case with conspicuous ability. His contention is that the letter can be subdivided; that the first portion of the letter is an unqualified acceptance of the offer; and that all that follows, namely, the words, "which means, we presume, on car. We will advise you in a day or two how we want it shipped," is an erroneous assumption on the part of the purchaser as to his rights under the contract.

I quite agree in the law suggested by Mr. Haverson. I think it is borne out by the case he relied upon, *Clyde v. Beaumont*, 1 De G. & S. 397. There may be an acceptance in the true sense of the term, and the parties may thereafter discuss matters in such a way as to indicate a misunderstanding of the agreement without intending to alter or modify the contract.

But that is not the case here. I think this was a deliberate attempt to import into the inapt and ambiguous words used by McLeod a definite meaning, and so leave it open to the company to say to him, "Either there is no contract, or the contract must be construed with the meaning attached by our letter of acceptance." Godson very well knew that the words "in place" in McLeod's letter did not mean upon the car; and by his letter he intended to affix that particular meaning to those words. That being so, on elementary principles, there is no contract.

The principle is well stated in Leake, 5th ed., 219: "A written contract may be expressed in such general or ambiguous terms as to admit of different constructions; in which case, though the written contract must be applied, if possible, according to its terms, it is open to either party to allege, consistently with the terms, that he accepted the contract with a different construction to that charged by the other party, so that there is no real agreement between them."

Put as favourably as possible for Mr. Haverson, this means, as applied to this case, that there is no contract; because McLeod intended the words "in place," to mean "where the machine now is." Godson did not accept the