

and inclusive of the trial were awarded to the plaintiff; and the costs of the reference were to be in the discretion of the Master. Upon appeal by the defendant from the taxation of the plaintiff's costs, it was held by SUTHERLAND, J., that the Taxing Officer was justified, having regard to the claim made and the disposition thereof (see ante 84), in taxing the costs on the scale of the Supreme Court. Held, also, as to other matters included in his notice of motion by way of appeal from the taxation, that the defendant was not entitled to any relief. Motion dismissed with costs. J. J. Gray, for the defendant. Edward Meek, K.C., for the plaintiff.

KAMINISTUIQUIA POWER CO. V. SUPERIOR ROLLING MILLS CO.
LIMITED—BRITTON, J.—JUNE 16.

Damages—Breach of Contract to Take Electric Energy Supplied by Power Company—Measure of Damages—Peculiar Commodity—Money Damages Equivalent to Stipulated Price.—Action for damages for the breach by the defendant company of a contract for the supply of electrical energy. The contract was in writing and dated the 30th June, 1911. The plaintiff company agreed to "furnish and have available for" the defendant company "at least 200 horse power," and granted the defendant company the option of taking a further quantity not to exceed 350 horse power. The main contest was as to the amount of the damages. The plaintiff company contended that, by the contract itself, the damages were liquidated or "stipulated." The defendant company, on the other hand, contended that the plaintiff company could not recover other than such damages as might be proved to have arisen by reason of the breach; or that the plaintiff company was at most entitled only to nominal damages. It was recited in the contract that the defendant company was desirous of obtaining at least the 200 horse power with the option of an additional 350 horse power, and that the plaintiff company had agreed to furnish the said 200 horse power and to grant the option required by the defendant company. And the contract was, that the plaintiff company should sell and have available or ready to deliver the said 200 horse power, and the defendant company agreed to purchase and take it from the plaintiff company for a period of 20 years, to be reckoned from the completion of the company's mills, but not later than 18 months from the date of execution of the contract. The power was to be delivered in accordance with the terms par-