

in order to fasten upon the appellant the liability which is sought to be imposed upon her, without a scrap of writing to support the statements of the respondent and her husband as to the making of the somewhat unusual agreement which the appellant is alleged to have made.

The testimony of a party seeking to fasten such a liability on another, as to what were the terms of the agreement alleged to have been made, should at least be clear and specific; and in that respect the testimony of the respondent is wanting, and, in my opinion, unsatisfactory. . . .

The correspondence, in my opinion, makes it clear on which side the truth lies. . . .

[Summary of the correspondence.]

The testimony of the respondent and her husband is discredited by their own letters; and it is, to my mind, out of the question that, against the denials of the appellant and her husband, and in the face of these letters, it should be determined that the respondent has satisfied the onus of establishing the agreement which she sets up in her counterclaim.

Almost any one of the letters . . . is sufficient to turn the scale in favour of the appellant; but the cumulative effect of the whole correspondence is, in my opinion, to lead irresistibly to the conclusion that the case attempted to be made by the respondent is disproved.

I am, for these reasons, of opinion that the judgment directed to be entered on the counterclaim should be set aside, and that judgment should be entered dismissing it with costs, and that the respondent should pay the costs of the appeal. . . .

TEETZEL, J., concurred, for reasons briefly stated in writing.

KELLY, J., also concurred, for the reasons given by MEREDITH, C.J.

Appeal allowed.

QUEBEC BANK V. SOVEREIGN BANK OF CANADA (No. 1)—BRITTON, J.—SEPT. 11.

Contract—Guaranty — Debt of Insolvent Company—Correspondence — Liability — Bank Act—Securities—Payment for Timber.]—Action for recovery by the plaintiffs from the defendants of the price (agreed on, as alleged) of 3,934 cords of spruce at \$6 per cord, delivered by the plaintiffs to the Imperial