

in paying quantities, or so long as they could supply the same without loss to themselves. They did not do so.

It has been laid down that "when the party by his own contract creates a duty or charge upon himself, he is bound to make it good, notwithstanding any accident by inevitable necessity, because he might have provided against it by his contract:" *Clifford v. Watts* (1870), 40 L.J. C.P. 36, L.R. 5 C.P. 586; *Leake on Contracts*, 6th (Can.) ed., p. 495; *Wallbridge v. Gaujot*, 14 A.R. 460 (affirmed 15 S.C.R. 650); *Ridgeway v. Sneyd*, Kay 632; *Gowan v. Christie*, L.R. 2 Sc. App. 273: "At common law the mere fact of 'unworkability to profit' affords no ground for reducing or throwing up a lease of minerals, which are in their nature subject to many vicissitudes."

The plaintiffs ask, and I think are entitled, to receive from the defendants damages for the breach of the agreement for failing to supply to them gas free. Approximately, it has cost them about \$60 since the date when the defendants refused further to supply them with gas. I think each of the three plaintiffs, Sundy, Strome, and Kenny, must, therefore, have judgment for the sum of \$60 down to the date of trial. I find that the covenant to supply free gas to the plaintiffs is still an existing and binding one upon the defendants. In case, therefore, they continue to refuse to supply the plaintiffs, the disposition I am making of this case will not in any way prejudice the rights of the plaintiffs in any future action.

I think it is a case in which High Court costs should be granted to the plaintiffs, and I make an order accordingly.

It is, of course, impossible to say exactly how long the Attercliffe station gas field will continue to supply gas for commercial purposes, or even for local purposes. Aikens, a gas expert who testified at the trial on behalf of the plaintiffs, says that the gas under present conditions and consumption would probably last eight or ten years for commercial purposes, and will possibly be completely abandoned for such purposes in twelve years. It may be that the parties would prefer that I fix a lump sum to be payable by the defendants to the plaintiffs for a release of any further liability under the contract in question. If so, the matter may be further mentioned.