

HON. MR. JUSTICE LEITCH.

MARCH 19TH, 1914.

BRITISH COLUMBIA HOP CO. v. ST. LAWRENCE
BREWERY CO.

6 O. W. N. 114.

*Sale of Goods—Refusal of Purchaser to Accept—Terms of Contract
—Evidence—Damages—Quantum.*

LEITCH, J., gave plaintiffs, a hop company, \$1,230.33 damages against defendants, a brewery company, consequent upon the latter company's refusal to accept and pay for certain hops purchased from the plaintiff company.

Action to recover damages for an alleged breach of contract bearing dated 20th September, 1912, made between plaintiffs and defendants, for the sale to defendants of a hundred bales of hops.

The contract, which was in writing, provided that the British Columbia Hop Co., called the seller, agreed with the St. Lawrence Brewery Co., called the buyer, as follows:—

“The seller agrees to sell to the buyer 100 bales of hops, equal to or better than choice brewing British Columbia hops of the crop of the year 1912, equal sample of lot 2058. The said hops to be delivered on or at cars or ex dock or store, Cornwall, Ont., or at the delivery lines terminals convenient thereto. The buyer agrees to pay on each bale of hops at the rate of 25 cents per pound (tare 5 pounds) plus freight from Pacific coast. Terms, net cash. Time of shipment and or delivery during the months, inclusive of latter part of February, 1913, following the harvest of each year's crop with such extra time as provided in paragraphs 12 and 16 endorsed hereon. It is agreed that this contract is severable as to each bale. The seller may treat entire unfulfilled portion of this contract as violated by the buyer upon or at any time after buyer's refusal to pay for any hops, or any note or acceptance given in payment of hops that have been delivered and accepted hereunder, or, if this contract or any part of it is otherwise violated by the buyer. This agreement is subject to the printed conditions endorsed hereon.

“15. The buyer waives all rights to rejection or to allowances on any delivery on account of quality unless such claim be delivered to seller by telegraph or by writing within 5 days after arrival of the hops at place of delivery and unless such claim be so made prior to buyer's exercise of any right of ownership of the said hops.”

The terms were net cash. The contract was subject to the printed conditions endorsed thereon.