

if it is practicable he should go to the residence of the witness and that the question of whether it is practicable or not is for him to decide.

SALE OF GOODS—C.I.F. CONTRACT—"TERMS NET CASH"—RIGHT TO INSPECT GOODS BEFORE PAYMENT—PAYMENT ON PRODUCTION OF SHIPPING DOCUMENTS.

*Biddell v. E. C. Horst Co.* (1911) 1 K.B. 214 was an action to recover damages for breach of contract for sale of goods. Vaux & Co. had by writing agreed to buy a quantity of hops from the defendants in California, to be shipped to Sunderland, and it was agreed that the buyers "shall pay for the hops . . . c.i.f. to London, Liverpool or Hull; terms net cash." Vaux & Co., assigned the benefit of the contract to the plaintiffs. The defendants notified the plaintiffs that they would ship the goods and would draw on the plaintiff for the price at sight with "negotiable bills of lading and insurance certificate attached to draft," and also offered to attach certificates of quality of the merchant exchange of San Francisco. The plaintiffs then notified the defendants that they would not accept the certificates as to quality and declined to pay the bill until they had had an opportunity of inspecting the goods. On receipt of this information the defendants declined to forward the goods, and the action was brought—Hamilton, J., who tried it, came to the conclusion that on a cost insurance and freight contract such as this, it was well settled that the seller was entitled to payment of the price against the bill of lading and insurance certificate and that the buyer could not claim a right to inspect the goods as a condition precedent to payment. "A seller under a contract of sale containing such terms has firstly, to ship at the port of shipment goods of the description contained in the contract; secondly, to procure a contract of affreightment, under which the goods will be delivered at the destination contemplated in the contract; thirdly, to arrange for an insurance upon the terms current in the trade which will be available for the benefit of the buyer; fourthly, to make out an invoice as described by Blackburn, J., in *Ireland v. Livingston*, L.R. 5 H.L. at p. 406, or in similar form; and finally to tender these documents to the buyer, so that he may know what freight he has to pay and obtain delivery of the goods, if they arrive, or recover for their loss, if they are lost on the voyage.