

The evidence shewed that the contract was made October 10, 1907, and was approved by plaintiffs a few days later, but by an error made by one of plaintiffs' employees the approval was made to appear as if made at a much later date and subsequent to the date of a letter in which defendant sought to rescind the contract.

*Held*, that, the date was not material and that the actual date could be shewn.

The printed form of contract contained a provision under which the title to the safe was to remain in plaintiffs until the whole of the purchase money was paid and these words were not struck out although they appeared to be applicable to cases where goods were sold on credit or the instalments were to extend over a period of time.

*Held*, that, while in the ordinary course the agreement for delivery F.O.B. would pass title, the court would not be justified in rejecting the clause not struck out retaining title in the plaintiffs until performance of the conditions provided for.

*J. J. Ritchie*, K.C., for plaintiffs. *J. M. Owen*, for defendant.

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Graham, E.J.—Trial.]

[Oct. 28.]

BROOKES v. BROOKES.

*Deed—Action claiming reformation—Laches—Limitation of actions.*

Plaintiff brought an action to reform a deed made twenty-seven years previously, as to one lot of land included therein, on the ground, chiefly, that at the time the deed was made the lot of land in question was claimed by and was supposed to belong to defendant, under the will of the original owner. Defendant admitted that he had always asserted a claim to the land as alleged, but there was evidence shewing that plaintiff a number of years before action was brought became aware of the existence of the deed under which he claimed, and although he then knew of the will and the deed and of the claim asserted by defendant he took no steps to ascertain what his rights were. Since then defendant had sold the greater part of the land to a purchaser without notice.

*Held*, that, plaintiff had been negligent and that it was now too late to afford him relief.