

fendant. The oral testimony and the documents bear out in a fairly satisfactory manner the charge for freight, and I have come to the conclusion that it should be allowed at the item already mentioned, namely, \$5,456.50.

As to the item of demurrage, the evidence is not so satisfactory as to enable me to reach the conclusion that the defendant should be charged for so large a number of days as 1820. It is difficult to know just what is a fair and reasonable allowance in this connection, but in the circumstances I have come to the conclusion that 1,000 days would be reasonable, and that a proper allowance for this item of the plaintiffs' claim would be \$1,000.

I have had much difficulty to know what disposition to make of the plaintiffs' claim for gravel. The defendant says he was to get the gravel; Chamberlain said there was no bargain that the plaintiffs were to supply it, only an arrangement as to the terms on which they would haul it. Nowhere I think, do the plaintiffs shew when it was arranged or upon what terms that the plaintiff should sell gravel to the defendant. The gravel obtained by him came from pits which one of the plaintiffs testified belonged to them. It is clear that the amount of gravel claimed for was received by the defendant and that the prices charged are reasonable. Under these circumstances, and with some doubt, I allow the item at \$1,152.50.

I do not think that the evidence as to the fares is such as to justify me in charging the defendant therewith, and this item of the plaintiffs' claim of \$54 is disallowed.

There are items also in the claim of sundries, as for example the rent of a car the evidence as to which is not very satisfactory. I think a reasonable sum to be allowed to the plaintiffs under this head would be \$75. The sums thus allowed aggregate \$7,673.10.

The defendant has already paid on account \$2,357.86, which would leave a balance due to the plaintiffs of \$5,315.24.

The defendant has counterclaimed for the sum of \$3,039.04, but I am unable to see that the evidence and documents would warrant me in allowing any part thereof.

There will therefore be judgment for the plaintiff for \$5,315.24, with costs, and dismissing the counterclaim with costs.