

*Recovery of deposit where vendor wrongfully sold goods.* The plaintiff purchased cattle to be kept by the defendant until fit for the English market and paid a deposit of two hundred dollars. Defendant considered that he was not bound to keep them beyond August 20th, and insisted upon plaintiff taking them off his hands, notifying him that if he did not do so they would be re-sold. Plaintiff refusing to take them until the proper time, the defendant did sell them and claimed to retain the deposit. It was held that the plaintiff could waive the breach of the contract and sue simply for the recovery of the money paid. *Murray v. Hutchinson* (1887), 14 A.R. (Ont.) 489.

*Purchaser must accept delivery in reasonable time. Damages for refusal.* Where a specified quantity of hay was sold to be delivered at a specified place, at such times and in such quantities as the purchaser might order, it was held that the purchaser must accept the hay tendered within a reasonable time, and that the measure of damages was the difference between the contract price and the market price or value on the day fixed for delivery, or in the present case, the day when the hay was tendered to the defendant and he should have taken delivery, that being the time when the contract was broken. The plaintiff was not bound to re-sell the hay, though he might, if he thought proper, have done so and charged the vendee with the difference between the contract price and the price realized at the sale. But it would be requisite, in such a case, to show that the hay was sold for a fair price and within a reasonable time after the breach of the contract. The plaintiff was also allowed for extra expenses which he had incurred owing to the refusal of the defendant to fulfil his contract, such as labour, cartage, storage, weighing and selling the hay. *Chapman v. Larin* (1879), 4 Can. S.C.R. 349.

*Damages for refusal to accept where the contract was to deliver wood in instalments and after one instalment had been delivered.* The plaintiff in *Moore v. Logan* (1856), 5 U.C.C.P. 294, received as damages the difference between the contract price and the selling price "at the time the contract was broken or to be performed." These periods are not necessarily the same, but the case does not discriminate and is of no value on the question which is discussed, which is the proper time at which to take the selling price, whether it is the time when the instalments were to be delivered, or the time when the defendant refused to accept further instalments and thus broke the contract. On the whole, it is not a very valuable case.

In *Brunskill v. Mair* (1857), 15 U.C.Q.B. 213, the defendant failed to accept a quantity of flour delivered at Oswego, in consequence of which the plaintiff was obliged to resell. He was held entitled to recover the difference between the contract price and the price at which he had been obliged to resell at Oswego. The defendant was contending that the price at Toronto should govern, but this contention was overruled, as the plaintiff was at liberty to deliver it at Oswego.

*Damages for refusing to accept deed of transfer.* The plaintiff sued in an action, among other things, for the refusal to accept the deed of a vessel sold by plaintiff to defendant and of which the defendant had received possession. The jury gave as damages the whole value of the vessel and the court declined to disturb the verdict. The defendant was objecting that no title to the vessel had passed to him for want of the transfer under the provisions of 8 Vict., c. 5 but the court, held that it was not competent for him to set up