

OLSEN v. CANADIAN ALKALI CO.—SUTHERLAND, J.—MARCH 26.

Contract—Building Contract—Disputed Items—Findings of Trial Judge—Interest—Costs.]—Action by John E. Olsen, as assignee of the Theodore Starrett Company, to recover certain sums for work done and material supplied under a building contract. The action was tried without a jury at Sandwich. SUTHERLAND, J., in a written judgment, set out the important provisions of the contract, and stated the facts. He said that at the trial the only sums in dispute were: (a) \$110 for a sign alleged to have been constructed by the plaintiff; (b) \$220 for draftsman's work; (c) \$261 for superintendent's and engineer's services; and (d) \$296.71 for interest: \$887.82 in all. The learned Judge examined the evidence as to these items, and concluded that items (a) and (b) should be disallowed; that item (c) should be allowed at \$229.59; and that item (d) should be allowed, but not at the amount claimed; the rate should be 5 per cent. only, and a computation should be made and submitted if the parties did not agree. There should, therefore, be judgment for the plaintiff for \$229.59 and a sum for interest, but the plaintiff should pay the amount of a judgment recovered against him by a hardware company, or the amount of the same should be deducted from the sums now awarded to the plaintiff. The plaintiff should have costs down to the 5th March, 1917, when the defendants offered to pay the sum of \$261. Otherwise no order as to costs in favour of either party. A. H. Foster, for the plaintiff. E. A. Cleary, for the defendants.