

The action was tried without a jury at Toronto.
R. S. Robertson and J. W. Pickup, for the plaintiffs.
Casey Wood and E. G. McMillan, for the defendants.

LENNOX, J., in a written judgment, said that to establish the contract the plaintiffs relied upon a letter written to them by the defendants' operation superintendent on the 3rd September, 1917, and beginning: "We agree to provide transportation . . . 10,000 cords of pulpwood . . . from the port of Michipicoten to the Ontario Paper Company Limited's plant at Thorold, Ont., for the rate of \$2.25 per cord, delivery to commence during the month of May, 1916, and continue thereafter until said contract is completed . . .;" and the acceptance of this proposal, communicated orally to the superintendent by the plaintiffs about the 6th September, 1915.

The defence was, that there was no contract contemplated, no bona fide proposal made, and nothing to accept.

The learned Judge reviewed the evidence at length, having to determine a question of fact upon conflicting evidence.

He found that on the 18th August, 1915, the defendants' superintendent intimated that the defendants were willing and ready to enter into arrangements to carry 10,000 cords of pulpwood for the plaintiffs to Thorold at \$2.25 a cord, in the season of 1916, and to define the terms of the contract for transportation, by letter or memorandum, if and so soon as the plaintiffs could arrange definitely for the sale of the wood to the Ontario Paper Company; that on the 3rd September, 1915, no question of inducing the Ontario Paper Company to purchase existed—complete arrangements for sale to that company had then been made, subject only to the signing of a formal contract, as Deeble, the plaintiffs' agent, and Cowan, the defendants' superintendent, both knew; that the letter of the 3rd September, 1915, was delivered to Deeble for the plaintiffs pursuant to the understanding arrived at on the 18th August, and was intended by Cowan to be acted upon by the plaintiffs and to enable them with safety to enter into a binding agreement for sale to the Ontario Paper Company, and it was relied upon and immediately acted upon by the plaintiffs in that way; that the fact of a sale to the Ontario Paper Company was immediately communicated to Cowan, and that this communication was intended as a final acceptance of the defendants' proposal, and was so understood and treated by both parties to the action.

Judgment for the plaintiffs for \$14,000 with costs.