

the doors or openings, or whether, when that change was made, the rods should have been put in a different position. Although the defendant objected to them, and, by changing the interval between the rods, the subsequent ones were hooked together, it does not appear that he in any way required the plaintiff to change the two rods which he objected to, but allowed him to go on and finish the silo.

But on the question of the workmanship in the concrete wall itself, which the learned trial Judge has found to be defective, whatever opinion one might be inclined to form from merely reading the evidence, which is contradictory, the weight to be attached to the statements of individual witnesses is a matter which the trial Judge has so much better an opportunity of forming an opinion upon than an appellate Court would not be justified, in the circumstances, in interfering with his conclusions. He has dealt very fully with the various differences between the parties, and has held that the plaintiff did not in fact perform his contract, and, consequently, cannot claim payment for it.

The evidence was fully dealt with by counsel; but there does not seem warrant for considering that the learned trial Judge did not reach a correct conclusion when he finds lack of sand, which the defendant offered, lack of cement and lack of proper mixing, resulting in a honeycombed or crumbling wall, and when he prefers to believe the defendant, instead of the plaintiff's foreman, who contradicts him.

The defendant has not only resisted payment for the silo, but has counterclaimed for damages sustained through not being provided with a silo for the preservation of a crop of eight acres of corn which, in expectation of its construction, he planted and cultivated; and for this the learned trial Judge has awarded \$96 to the defendant. The learned trial Judge appears to have been fully justified in finding that it was in the contemplation of the parties that the silo was to be used for a crop of corn that year. The defendant says that, having no place to put the crop, he left it in the field, feeding it to his cattle as he could, but in that way one-half of his crop was lost. He himself could not give any idea of the amount of his crop, except that it was a good one, nor of its value, nor of his loss. The learned trial Judge appears to have arrived at the sum of \$96 by computing the crop as twelve tons to the acre and worth \$2 per ton in the field, and the loss at one-half the crop. But the same expert witness, whose valuation the learned