

argument as to the absence of the seal and of the word "limited," I am "invited to re-introduce a relic of barbarous antiquity:" per Cockburn, C.J., in *South of Ireland Colliery Co. v. Waddell*, L. R. 4. C. P. at p. 618. . . .

[Reference to *Thompson v. Brantford Electric Co.*, 25 A. R. at p. 345.]

The contract is not executory, but partly executed. Plaintiffs have supplied patterns and core boxes, and the consideration need not be commensurate with the obligations: *Westlake v. Adams*, 5 C. B. N. S. 248, 265.

While there is no authority by resolution or by-law, there is authority derived from the practice of defendants' business, and subsequent correspondence recognizing this as a subsisting contract. See also *Albert Cheese Co. v. Leeming*, 31 C. P. 272.

It is further objected that plaintiffs are an extra provincial corporation carrying on business without a license, contrary to the provisions of 63 Vict. ch. 24 (O.) I do not think that they are carrying on business within the meaning of the proviso to sec. 6 of the Act, but if they were, I should think this objection ought to have been pleaded. The proviso to sec. 14 contemplates the further maintenance of an action brought before the granting or restoration of the license, and so, if defendants were allowed to amend by pleading this objection, the judgment, if in other respects in plaintiffs' favour, ought to be retained until plaintiffs should have an opportunity of applying for their license, and I therefore overrule this objection.

There will be judgment for plaintiffs, with costs, on the issues joined on the record; with a reference as to damages to the Master in Ordinary.

MARCH 19TH, 1906.

DIVISIONAL COURT.

HOVENDEN v. O. C. HAWKES LIMITED.

Principal and Agent—Agent's Commission on Sale of Goods—Time for Payment—Rate of Commission—Contract—Correspondence—Payment for Samples Sent to Agent.

Appeal by defendants from judgment of BRITTON, J., ante 132.

W. E. Middleton and R. G. Hunter, for defendants.
J. E. Jones, for plaintiff.