

10,000 bags of flour at \$7.05," i.e., "subject to them staying out of the market until the 1st November, as it would give us a chance to get the flour;" that Weeks said he would have to see or telephone Mr. Black, the manager at Montreal, and said, "You send along a wire, and if it is all right we will confirm it back;" that Morrow proposed to offer 10,000 more bags subject to these terms; that Weeks asked Morrow to send him a wire on that so that he might have something to shew to Mr. Black—and that Weeks was to notify him. Morrow did not deny that, on the 14th or 15th, he told Weeks to send the bags to Toronto.

Weeks denied the story of Morrow where it differed from his own.

The learned Judge said that the important question of fact was: "Were the telegrams of the defendants to London acceptances of offers, more or less definite, made by Weeks, or were they offers by the defendants which required acceptance?" The answer depended upon the credibility of the two witnesses, Weeks and Morrow. The trial Judge accepted the story of Weeks, and the Court could not say he was wrong.

If the learned Judge (RIDDELL, J.) had to pass upon the question without the assistance of the trial Judge's finding, his conclusion would be the same, both upon the probabilities and upon the fact that Morrow did not deny what Weeks swore to as to the directions by Morrow to "send the bags" to Toronto—a clear acknowledgment of the existence of a contract.

There was no difficulty from the Statute of Frauds.

The damages appeared to be excessive.

The appeal should be dismissed except as to damages, and the question of damages should be referred to the Master, who should dispose of the costs of the reference.

There should be no costs of the appeal but the plaintiffs should have the costs of the action.

LENNOX and ROSE, JJ., were of the same opinion as RIDDELL, J., for reasons stated by each in writing.

MEREDITH, C.J.C.P., read a judgment in which he dissented from the view of the other members of the Court, in regard to the main question. He agreed that the damages were excessive.

Judgment as stated by RIDDELL, J.