

date, although the latter was greater than at the date originally fixed for delivery: Halsbury's Laws of England, vol. 10, p. 334, para. 611.

For the lowest grade of ore covered by these contracts, ore analysing 32 per cent. chromic oxide, the contract-price was \$23.50 per gross ton of 2,240 lbs. On the 21st June, 1918, the market-value of ore of a similar grade deliverable at the place and on the terms provided for in the contracts, was \$53.76 per similar ton—or a difference of \$30.26 per ton. The plaintiffs were content that the calculation should be based on this lower grade throughout.

Under the contracts they were entitled to delivery of an additional 2,660 tons. There should be judgment for the plaintiffs for \$80,491.60 and costs.

MIDDLETON, J.

APRIL 22ND, 1920.

MARTIN v. EVANS.

Mortgage—Foreclosure of Rights of Principal Debtor—Effect as to Property of Surety—Foreclosure Set aside as Nullity—Effect of Judgment—Admissions and Consent of Counsel—Interest pendente Lite—Application of sec. 18 of Limitations Act—Rate of Interest post Diem—Construction of Provisions of Mortgage-deed—Computation of Interest—Compound Interest.

An appeal by the defendants from a certificate of a Local Master upon the reference directed by the judgment of the Supreme Court of Canada, upon appeal from a judgment of a Divisional Court of the Appellate Division, *Martin v. Evans* (1917), 39 O.L.R. 479.

The appeal was heard in the Weekly Court, Toronto.

W. S. MacBrayne, for the defendants.

H. E. B. Coyne, for the plaintiffs.

MIDDLETON, J., in a written judgment, said that the first question was whether it was open to the defendants to contend that, by reason of the dealings with the plaintiffs and with the property of William Evans the younger, the plaintiffs had discharged Williams Evans the elder and his property from all obligations with respect to the amount claimed.

It may be argued with much plausibility and force that, upon foreclosure of the property of the principal debtor, the property of the surety is entirely exonerated. But, if the foreclosure was a nullity, as apparently it was in the view taken by the Divisional