

LOGIE, J.

JANUARY 23RD, 1920.

INDUSTRIAL AND TECHNICAL PRESS LIMITED v. JACK  
CANUCK PUBLISHING CO. LIMITED.

*Contract—Weekly Newspaper—Printing, Trimming, Binding, and Making Ready for Delivery at Weekly Rate—Action for Price of Work Done—Credits Omitted—Dispute as to Time when Weekly Delivery Complete and Money Payable—Money Earned before Action Brought—Counterclaim—Damages for Failure to “Trim” Newspaper—Meaning of “Trim”—Evidence—Failure to Prove Loss by Alleged Want of Trimming—Costs of Action and Counterclaim.*

Action to recover the price of work done under a contract; counterclaim for damages for breach of the contract.

The action and counterclaim were tried without a jury at a Toronto sittings.

J. M. Ferguson, for the plaintiffs.

George Wilkie, for the defendants.

LOGIE, J., in a written judgment, said that the parties agreed that the sum due from the defendants to the plaintiffs was \$2,414.58, certain credits having been omitted by the plaintiffs in their statement of claim, unless one part of the claim, an item of \$638.32, was not due at the date of the commencement of the action.

The contract between the parties, dated the 15th April, 1915, bound the plaintiffs to print, trim, bind, and have ready for delivery f.o.b. the plaintiffs' plant, the weekly newspaper published by the defendants, at \$475 per week. The plaintiffs completed their work "ready for delivery" on the Saturday previous to the date of each issue of the newspaper, and the defendants took part of the issue away on each Friday night and the remainder on the following Monday. The defendants supplied all paper, cuts, prints, etc., used by the plaintiffs in printing the newspaper.

The learned Judge was of opinion that the plaintiffs' money was earned on the Saturday of each week prior to the date of issue, and was then due and payable.

The sum of \$638.32, or, as amended by the plaintiffs, \$636.97, was earned, therefore, and was due and payable on Saturday the 27th September, 1919. The action was begun on the 1st October, 1919; and the sum of \$636.97 was, therefore, properly included in the plaintiffs' claim.

There should be judgment for the plaintiffs for \$2,414.58.