

touch with prospective buyers, whom, however, he did not name. He informed her that the house was in a dilapidated condition, and, therefore, a good price could not be obtained, and advised her to accept the offer made, which she did. Later, when she discovered that the plaintiff and his wife were themselves the purchasers, she refused to carry out the sale, and they brought this action to force her to convey to them.

It was admitted that the defendant thought the plaintiff did not want the property himself, but only wished to befriend her in finding a purchaser. He refused, indeed, her offer to pay him a commission for his services, but that, of course, made no difference, as he left her clearly under the impression that he was nevertheless to act as her agent in the prospective transaction.

When he returned to Rossland he continued the misrepresentation, and led her by letters to believe that he was in treaty with some third parties for the purchase, and advised her to accept that third party's offer as being the best he could get out of them. As a matter of fact, it transpires that the third party was his wife, and that he himself had an interest in the purchase. He, therefore, occupied a position where his interest and his duty conflicted, and the authorities are conclusive that, in such cases, where there is a non-disclosure of that which it was the plaintiff's duty to disclose, no specific performance can be granted. In this case there was not only non-disclosure, but misrepresentation of material facts.

The plaintiff's action was dismissed with costs, 41 S.C.R., 445.

In the days when English law was in the evolutionary stages the courts knew nothing of such a process as enforcing specific performance of a contract. If one man refused to carry out his contract, the other party could institute an action for damages, and these, if obtained, would be proportioned to the seriousness of the loss or injury suffered by reason of the breach of contract. Then the plaintiff must proceed to collect his judgment, which was in many cases useless, as the defendant was not a man of substance, and thus the legal remedy was really a farce.

A secondary practice arose later in allowing the injured to elect to proceed for damages as above or sue for performance of the contract. The older remedy was based upon strict law, and if a plaintiff could prove a breach, he was entitled to a judgment, be it ever so small; but the new process was based upon equity and good conscience, and the Courts would refuse to help him if his own conduct had not been open and honorable. In the case above the plaintiff proved the existence of the contract, but the Court refused to enforce it because obtained by dishonorable means.

(Continued from Page 101.)

of it should be bent cold; unless you have an experienced blacksmith there is danger of overburning your steel, thereby weakening your material.

Most of your outside forms can be removed the next day after the concrete has been placed, by wetting the concrete thoroughly. Then apply a 1:2 mix of fine sand, brushing and rubbing down with a carborundum stone. This gives the surface a very smooth and pleasing effect.

Last but not least see that all plank walks and scaffolding are rigid and strong, preventing any cause for accidents. This one item alone may save you an expensive law-suit. Take no chances.

### RAILWAY ORDERS.

(Continued from Page 98.)

7488—July 9—Directing the G.T.R. to provide a night watchman at Wellington Street crossing, Hamilton, Ont.

7489—July 9—Authorizing switching connections between the Bay of Quinte Railway and the Kingston and Pembroke Railway at Harrowsmith, Ont.; Bay of Quinte

Railway to install and maintain semaphores at its own expense on each line of railway.

7490—July 6—Authorizing the Canadian Northern Ontario Railway Co. to cross and connect the tracks of the Ottawa and Prescott Railway Co. at mileage 56.6 west from Hawkesbury, Ont.; interlocking plant to be installed.

7491—July 9—Approving Canadian Northern Ontario Railway Co.'s freight tariff, C.R.C. 74, for use on the company's line of railway east of and including Toronto and Sudbury.

7492—July 6—Refusing application of corporation of Township of Rochester for Order varying Order No. 6981, May 10th, 1909, authorizing the construction by C.P.R. of Bridge No. 92.1 on Windsor section, Ontario Division.

7493—July 10—Authorizing the Canadian Northern Ontario Railway to open for traffic that portion of its line from South Nation River to Rockland, a distance of twelve miles.

7494—July 7—Disallowing Canadian Express Company's notice of cancellation of rate of 30 cents per 100 pounds on freight shipments from Queenston, Ont., to Toronto, Ont., which was made effective by the company on 14th June, 1909.

7495—June 25—Directing the G.T.R. and Bay of Quinte Railway Companies to publish and file with the Board a joint rate on bituminous coal from Black Rock, N.Y., and Suspension Bridge, N.Y., to Marlbank, Ont., of \$1.43 per ton of 2,000 pounds on a minimum weight of fifteen net tons per carload, except in case of cars having a less marked capacity than fifteen net tons, the said marked capacity, but not less than twelve net tons shall be the minimum carload weight. Rate to become effective not later than 23rd August, 1909.

7496—July 6—Authorizing town of Prescott, Ont., to lay and maintain a sewer outlet pipe across tracks of C.P.R. at Prescott.

7497—July 10—Approving by-law of the Atlantic, Quebec and Western Railway Co. authorizing Alphonse Lemieux, general manager of the company, to prepare and issue tariffs to be charged for all traffic carried on its railway.

7498—July 6—Dismissing application of Herbert Bingham and Joseph Quenneville, of Crysler, Ont.; Robert Stevens and Thos. Fleming, of Township of Finch, and Louis A. Landry, Township of Cambridge, for an Order directing the Ottawa and New York Railway to rebuild its railway station at Crysler, Ont., at a point on the north-east side of its railway line about 1,657 feet in a north-westerly direction from the site of its previous station.

7499—July 6—Dismissing application of the Montreal Park and Island Railway for authority to extend its line of railway along St. Denis Street, Montreal.

7500—July 7—Dismissing application of the Manitoba Grain Growers' Association for Order directing C.P.R., C.N.R. and G.T.R. to reduce their charges for the elevating and storage of grain at terminal elevators at Fort William and Port Arthur, Ont.

7501—July 13—Authorizing the C.P.R. to construct its railway across the highways in Township of Tay at mileage 2.98, 3.05, 5.36, 8, and 9.14.

7502—July 8—Approving location of the Union Station of the C.P.R. and C.N.R. at Maryfield, Sask.

### EXPERIMENTS MADE AT GARDEN CITY, DODGE CITY, BUCKLIN, AND FORD, KANS., WITH SAND-CLAY.\*

In the semi-arid portions of Kansas and Nebraska there is an extensive area of sand hills. These hills are usually parallel to the rivers, and vary in width from a few hundred yards to several miles. They are continually shifted by the winds, and hence road building in this region is a difficult problem. Good road material is scarce and the country is sparsely settled. In many localities there are no road ma-

\* From information furnished by the Public Roads Department of the Department of Agriculture, U.S.