

the terms of the broker's note, of sound, clear fish, or the refunding of the \$1,000.

On the next day, the 11th December, defendant delivered to plaintiff a warehouse receipt for 187 barrels, to cover the amount paid, offering to deliver the balance, on payment of the purchase price, less any barrels that might have been sold. At this time only 20 barrels had been disposed of. Plaintiff's firm accepted and kept the warehouse receipt, notifying defendant that the survey would be delayed until the return of plaintiff from his brother's funeral in Chicago. On the 12th December, defendant again refused to recognize any claim on account of the quality of the fish, and informed plaintiff that he would continue to sell on his account. On the 19th December, the day following his return from Chicago, plaintiff caused an examination to be made of the 187 barrels in Moses Davis' store, by a cooper named Coté, who only finished on the 29th December, finding 47 barrels rusty, one tainted, and one containing only salt and pickle, of which fact he apprised defendant by a letter of 30th December. On the 4th January plaintiff notified defendant that a survey would be made the following day of the 49 barrels by two merchants of Montreal, who did so, in the absence of defendant, with the same result as Coté.

As to the custom of the fish dealers in Montreal it seems to be that the intending purchaser examines the fish before closing the bargain and accepting the bought note from the broker, for which purpose a short delay of a couple of days is allowed; or that he examines the fish within a short delay after delivery, no fixed time being determined; the delay is longer between dealers or wholesale merchants and retailers than between consignees and wholesale merchants; the time allowed is a reasonable but short delay on account of the perishable nature of the goods.

Some wholesale merchants, while dealing with retailers, are very lenient as to time; in fact, some will make an allowance whenever they are satisfied that the claim is fair and honest, even after three or four weeks or months; but this is rather with them a matter of policy than of right, and cannot be accepted as a rule for the court.

The principle is, that the inspection must be made within a reasonable but short delay, according to circumstances. The good faith of the seller may be taken into consideration, if he were the packer and knew of the inferior quality of his goods. The