

that plaintiffs' conceded all the timber in Lount, and both parties wrote on the same day. Plaintiffs' letter (exhibit 5) was: "Your letter of the 4th duly received. We are surprised to hear you claim that the agreement was to include all the timber in berth 4 in Lount. . . . To close the matter at once, we will let the other timber on this berth go in. You will, therefore, please advise what day this week you will pay the money and complete the transaction." Defendant's letter (exhibit 6) was: "Sorry we had the wee discussion over the 'phone, but from the start I understood that Lount went in just as you had it, but only the pine in Mills and Pringle. As arranged this a.m., you transfer your license of Lount—which takes in all the timber—and the pine on the other two. Will advise you when to send papers in a few days."

Defendant deposed as follows on examination for discovery: "I received the letter, exhibit 5, in reply to my letter of the 4th October. I asked him to kindly have it fixed about the spruce. He assented to everything, and put in exhibit 5 as regards the timber. I would think I had not received the letter of the 8th October (exhibit 5) when I wrote exhibit 6. Before writing 6 I had a conversation with Mr. Burton over the 'phone; it was with reference to the timber in Lount. He was trying to hold out the spruce under 12 inches and other timbers. I think he said over the telephone that he would let everything go. . . . After that conversation I wrote him the letter of 8th October (exhibit 6). That part of our conversation was reduced to writing by these two letters."

The defendant's own statement and the two letters establish a completed bargain and agreement between the parties, evidenced in writing under the hand of the defendant.

The next question is, a binding contract between the parties being established, has the defendant shewn any reason why he should not perform it?

The point suggested at the trial that the agreement was conditional upon the defendant being able to make satisfactory financial arrangements was not pressed in this Court, and is not sustainable on the evidence.

The contention that the contract was not with the defendant, but with Playfair & White, also fails. The defendant was dealing as a principal with the plaintiffs, and conducted all the correspondence in his own name, and as if the transaction was wholly on his own behalf, and the plaintiffs were dealing with and looking to him in the affair. White