

debt from McDonald. Payments made by McDonald were credited directly to him in the plaintiff's ledger. Plaintiff allowed one of the notes sued on to become barred by the Statute of Limitations.

*Held*, that from these acts and conduct of the plaintiffs, there should be inferred an agreement by the plaintiff to discharge the defendant from his liability as a member of the firm and that the case comes within sub-section (b) of section 20 of the Partnership Act, R.S.M. 1902, c. 129. *Hart v. Alexander*, 7 C. & P. 746, 2 M. & W. 484, followed.

*Fillmore*, for plaintiff. *Fullerton and Foley*, for defendant.

Full Court.]

[June 12.

SUTHERLAND v. CANADIAN NORTHERN RY. CO.

*Limitation of time for commencing action—Injury received while working for railway company—What included in word "railway" as used in s. 306—Railways subject to Dominion legislation—Workmen's Compensation for Injuries Act—Distinction between rights of action arising under the Railway Act and those given by the common law or provincial legislation, as respects the limitation of time for commencing suit.*

*Held*, 1. An injury caused by the defective state of a scaffold being used in the construction of an ice house for the use of a railway company is not one "sustained by reason of the construction or operation of the railway," within the meaning of s. 306 of the Railway Act, R.S.C. 1906, c. 37, and therefore an action to recover damages for such injury is not barred by that section by the lapse of a year.

*Ryckman v. Hamilton, etc., Ry. Co.*, 10 O.L.R. 419, and *Robinson v. C.N.R. Co.*, 43 S.C.R. 387, followed.

2. The limitation of time prescribed by section 306 relates only to actions against railway companies provided for in the Railway Act itself, and was not intended to apply to actions the rights of which exist at common law or under provincial legislation.

3. Dominion railways are subject to provincial legislation on the relations between master and servant, such as the Workmen's Compensation for Injuries Act, unless the field has been covered by Dominion legislation ancillary to Dominion legislation respecting railways under the jurisdiction of Parliament, and