

that, except during the period of absolute refusal to grant permits, permission would not have been refused if application therefor had been made: In re Anglo-Russian Merchant Traders Limited and John Batt & Co. (London) Limited, [1917] 2 K.B. 679.

It was argued that the date fixed by the trial Judge was an erroneous one—that, if any breach of the contract occurred, it was on the 16th August.

The trial Judge rightly found that the breach occurred when the defendants definitely repudiated the contract, on the 3rd June, 1917; that it occurred at the place where the vendor was to deliver the goods on board ship, which was Auckland, New Zealand; and that the measure of damages was, therefore, what the plaintiff would have to pay for pelts in New Zealand on that date.

On all grounds, the judgment should be affirmed and the appeal dismissed with costs.

MULOCK, C.J. Ex., agreed with SUTHERLAND, J.

KELLY, J., agreed that the appeal should be dismissed.

MASTEN, J., read a judgment in which he stated his general agreement with the judgment of the trial Judge; and referred, on the question of the measure of damages, to Merrill v. Waddell (1920), 18 O.W.N. 279.

*Appeal dismissed with costs.*

SECOND DIVISIONAL COURT.

SEPTEMBER 24TH, 1920.

PROZELLER v. WILTON.

*Sale of Goods—Accounting for Goods Received—Acceptance of Part—Right of Rejection—Perishable Goods—Duty of Purchaser—Resale by Vendor.*

An appeal by the defendant Wilton from the judgment of LENNOX, J., 17 O.W.N. 125.

The appeal was heard by MULOCK, C.J. Ex., RIDDELL, SUTHERLAND, and MASTEN, JJ.

A. C. McMaster, for the appellant.

J. W. Bain, K.C., for the plaintiff, respondent.