

plaintiff and Eugenia Bennicourt, but also from the lands of one Joasse, and there was no evidence of any relation between those transactions and the Bennicourts, which made them relevant to the account ordered. At the close of the evidence this fact was pointed out by the appellant's counsel, but disregarded by the judge. The judgment pronounced on the erroneous certificate was therefore set aside, and the cause remitted with a direction to vary the certificate by disallowing all entries in the account relating to the pitch dug on the lands of Joasse, or otherwise than from the lands of the Bennicourts.

CABLEGRAMS.—CONTRACT IN CYPHER.—CONTRACT, MEANING OF.—ONUS PROBANDI.—MR TAKE.

Falck v. Williams (1900) A.C. 176, was an appeal from the Supreme Court of New South Wales. The action was brought on a contract concluded by telegram in cypher, which, according to the plaintiff's understanding of it, meant one thing, and according to the defendant's something else. The plaintiff contended that the telegram was so plain as to admit of no other interpretation than that which he put upon it; but the Judicial Committee of the Privy Council (Lords Hobhouse, Davey and Robertson, and Sir R. Couch) were of the opinion that the telegram was ambiguous, and that the onus was on the plaintiff to make out that the construction he had placed upon it was the true one, and in that he had failed, and the action was held to be rightly dismissed.

CONTRACT.—CONSTRUCTION.—EXTRINSIC EVIDENCE, ADMISSIBILITY OF

Bank of New Zealand v. Simpson (1900) A.C. 182, was an action brought by Simpson against the bank on a contract relating to a railway of which Simpson was engineer, and which provided inter alia that he should be allowed a certain additional percentage "on the estimate of £25,000, in the event of [his] being able to reduce the total cost of the works below £30,000." It was for this additional percentage the action was brought, and at the trial the defendants adduced evidence extrinsic to the written contract, to show that in arriving at "the total cost of the works" the cost of lands bought for the railway, and the plaintiff's fees under the contract, were to be included in the calculation, and being so included, the total cost had not been reduced below £30,000. On this evidence a verdict was given for the defendants.