

place at which by the contract they were to be delivered, and in the state in which by the agreement of March they were to be delivered, and the plaintiff, by measuring, estimating, marking, and stamping them with his own stamp, assented to the delivery of them in the state in which they were delivered, and unconditionally appropriated these 714 cords to the contract, and the property therein thereupon passed to the plaintiff, as was the intention of the parties; and the provisions of the agreement of March did not prevent the property passing; and the plaintiff must bear the loss of the wood which was destroyed by fire.

*W. H. Blake*, for defendant. *F. A. Magee*, for plaintiff.

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Falconbridge, C.J., Lount, J.]

[Feb. 16.]

LAIRD v. KING.

*Writ of summons—Renewal—Service—Rule 132.*

The decision of BOYD, C., ante p. 34, affirmed on appeal for the same reasons.

*H. E. Caston*, for plaintiff. *H. L. Drayton*, for defendant.

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Meredith, C.J., MacMahon, J., Lount, J.]

[Feb. 18.]

DODGE v. SMITH.

*Pleading—Real Property Limitation Act—Section of statute relied on—Appeals in matters of practice—Increasing costs.*

An appeal by the defendant from an order of FALCONBRIDGE, C.J., in Chambers, dismissing the defendant's appeal from an order of the Master in Chambers requiring the defendant to give particulars of paragraph 10 of the statement of defence, stating the Act and section of such Act under which the defendant asserted that the plaintiffs were barred.

Action to restrain the defendant from trespassing upon mining lands and for damages. Paragraph 10 of the defence was: "the plaintiffs' alleged claim was and is barred by the Real Property Limitation Act, and all the right and title, if any, which the plaintiffs ever had to the said land or to the said mines, minerals and ores, were extinguished by virtue of the said Act."

The Chief Justice in Chambers, with some doubt, followed *Pullen v. Snelus*, 40 L.T. N.S. 363, and held that the plaintiffs were entitled to know which section of the Act the defendants relied on.

*Grayson Smith*, for the defendant, contended that it was sufficient to follow the form in Bullen & Leake, 5th ed., p. 921, and simply plead the statute.

No one for the plaintiff.