tiff firm agreed to sell and defendants agreed to purchase the entire output for one year of certain lumber camps operated by the plaintiff firm. The contract was expressed to be binding upon the parties, their executors, administrators and successors respectively. Logs were to be paid for in cash on delivery. Shortly after the contract was entered into, the plaintiff firm caused a company to be incorporated under the name "The P. Timber Company, Limited," to which the company the firm assigned all its assets, including the timber limits on which the logs were to be cut, and including also the contract in question. The incorporated company agreed to perform all the contracts of the firm. The company continued to deliver logs under the contract for some months, until the defendants claiming that a breach of the contract had been made, notified the firm that further deliveries of logs would not be accepted. It was not clearly proved that the fact of the plaintiff firm having turned its business over to the company was ever clearly brought to the attention of the defendants, although the defendants in correspondence and in their minute book used the name of the incorporated company, and referred to the contract as being made with the incorporated company.

Held, 1. IRVING, J.A., dissenting. The alleged breach was assented to by the defendants' manager, and therefore the defendants were not entitled to repudiate the contract.

2. IRVING, J.A., dissenting. The contract was not of such a personal nature that it could not be assigned, or at any rate it did not require to be performed by the plaintiff firm personally, but could be performed by the company, and therefore the plaintiffs were entitled to recover damages for the wrongful repudiation of the contract by the defendants. *Tolhurst* v. *Associated Portland Cement Manufacturers* (1900) (1903) A.C. 414; *British Wagon Co.* v. *Lea* (1880) 5 Q.B.D. 149, referred to.

3. The facts did not establish a novation.

4. In estimating the damages to which the plaintiffs were entitled the amount of two booms sold to other parties with the consent of the defendants were not to be deducted from the amount of logs which the defendants were obliged to accept, but the damages were to be estimated without any reference to the fact of these booms being sold to other parties.

Sir C. H. Tupper, K.C., and *Griffin*, for appellants. *Craig* and *Hay*, for respondents.