and directed that after the death of the survivor the lands should be sold and the proceeds divided among her nephews and nieces, now represented by plaintiffs. The mother died, and Elizabeth remained in possession until her death, on 14th September, 1902. Defendants are her executors. In partition proceedings between plaintiffs and defendants the lands were sold on 28th November, 1902, for $5,500. In this action plaintiffs allege that between 1885 and 1902 Elizabeth Asselstine cut and removed from the lands large quantities of wood and timber and parts of the buildings thereon, and that but for these wrongful acts the lands would have sold for $9,000.

C. A. Masten, for plaintiffs.

A. B. Aylesworth, K.C., for defendants.

MACLAREN, J.A.—Elizabeth Asselstine had a right as tenant in common and life tenant to cut down and use wood and timber for firewood and repairs on the lands in question, and also, so far as might be done, in the course of good husbandry, but not otherwise. Defendants are entitled to the benefit of the Statute of Limitations, so that they are only liable for six years. There should be a reference to the Master at Napanee to take the account of such wood, timber, and buildings removed from the lands in question. See Goodenow v. Farquhar, 19 Gr. 614. Plaintiffs will be entitled to one-half the amount so found. Further directions and costs reserved.

BRITTON, J.   JULY 7TH, 1903.

TRIAL.

UPTON v. ELIGH.

Sale of Goods — Contract — Correspondence—Breach—Non-delivery— Action against Executors of Vendor—Corroboration.

Action by plaintiff against the executors of the late Hebron Harris for damages for non-delivery of 100,000 railway ties in the fall of 1899 and during the season of navigation of 1900, pursuant to an alleged contract made by correspondence between the plaintiff and Hebron Harris in his lifetime.

G. F. Henderson, Ottawa, for plaintiff.

G. E. Kidd, Ottawa, for defendants.

BRITTON, J.—The plaintiff is a wholesale dealer in lumber, carrying on business at Charlotte, New York. Harris