

Full Court.]

BOYCE v. SOAMES.

[July 14.

Accord and satisfaction—Return of article purchased—Promise to buy back if purchaser's circumstances should change.

Appeal from verdict of County Court judge in favour of plaintiff in action to recover price of a Tilbury cart manufactured for and delivered to defendant.

After defendant had used the cart for a short time, he went to plaintiff and told him that he was unable to pay his debts, (as was apparently the fact), and offered to return the cart. The plaintiff agreed to this and took the cart. He kept it and repeatedly tried to sell it without referring to the defendant. He continued to so act for about four years without making any claim on defendant for payment.

Plaintiff swore that at the time of returning the cart, defendant said he would re-imburse him when he was able to do so, but on cross-examination he admitted that what defendant promised might have been only to the effect that if, in the future, his circumstances should become such as to justify his keeping horses, he would buy back the cart if still in the plaintiff's hands.

Held, that there was nothing in such promise to remove the presumption of an accord and satisfaction arising out of what had taken place when the cart was taken back, and that the appeal should be allowed with costs.

T. R. Ferguson, for plaintiff. *E. L. Howell*, for defendant.

Province of British Columbia.

SUPREME COURT.

Full Court.]

[July 31.

GREEN v. BRITISH COLUMBIA ELECTRIC RY. CO. AND COOK.

Limitation of action—Private and public Acts, construction of—B.C. Stat. 1896, c. 55, s. 60—R.S.B.C. 1897, c. 58—Public Authorities Protection Act, 1893 (Imperial).

Deceased, a workman employed by defendant Cook on a contract work for the defendant company, was instantly killed by coming in contact with a live wire. The accident occurred Au-