

tract with defendants, and had accepted a very large part of it, but had rejected the portion in respect of which the present action is brought, as not of the character for which they had stipulated in the contract.

Counsel for defendants conceded at Bar that there was evidence before the Master which would support his findings, but he contended that the witnesses who gave such evidence were not qualified to pronounce opinions upon which reliance should be placed as to the quality and classification of lumber, and that the weight of the testimony before the Master sustained defendants' rejection of the lumber in question. . . .

[Reference to the testimony of certain witnesses.]

The question for our consideration is, whether the weight of evidence so overwhelmingly preponderates in favour of defendants that we should set aside the Master's finding in favour of plaintiffs for a portion of their claim.

After carefully weighing the evidence, and taking into account the fact that the Master saw all the witnesses and had opportunities, which we have not, of judging of their credibility and of the value of their testimony, I am of opinion that an interference, which would involve a substitution of our views for his upon these points, would be unwarranted. Nothing is more difficult than to make out a case for reversal of findings of fact upon conflicting evidence, and it is right that such an undertaking should be difficult. Not being satisfied that the Master was clearly wrong, we are not in a position to reverse his apparently carefully considered findings.

Appeal dismissed with costs.

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DECEMBER 10TH, 1906.

DIVISIONAL COURT.

BARTHELMES v. CONDIE.

*Bankruptcy and Insolvency—Assignment for Benefit of Creditors — Right of Creditor to Rank on Estate — Owner or Chattel Mortgagee of Insolvent's Business—Evidence—Representations—Conduct—Estoppel.*

Appeal by defendant from judgment of FALCONBRIDGE, C.J., in favour of plaintiffs in an action for a declaration that