also to the following: Evans v. Rees (1841), 2 Q.B. 334, 11 L.J. N.S.Q.B. 11; Ram Coomar Coondoo v. Chunder Canto Mookerjee, 2 App. Cas. 186; Fraser v. Malloch, 23 Rettie 619.

LATCHFORD, J., concurred.

Appeal dismissed with costs.

DIVISIONAL COURT.   JANUARY 26TH, 1912.

CADWELL v. CAMPEAU.

Contribution—Co-sureties—Bond for Fulfilment of Municipal Contract—Advances Made and Work Done by one of three Bondsmen—Assignment of Contract to him—Agreement between Sureties—Construction—Extent of Liability for Contribution.

Appeal by the defendants from the judgment of BOYD, C., in favour of the plaintiff, in an action for contribution, upon a bond given by the plaintiff and defendants to the Municipal Corporation of the Town of Sandwich for $5,000 for the due fulfilment of a contract between John Lorne & Son and the town corporation for the construction of a sewer.

On the 12th May, 1909, John Lorne & Son contracted with the corporation to construct a sewer, upon certain terms and conditions. One clause of the contract provided for weekly payments during the progress of the work, under progress certificates of the engineer "of 80 per cent. on account of work done and materials supplied under this contract and for duly authorised extras, the value of such work to be in proportion to the amount payable for the whole work and authorised extras, and the balance of the said contract and all duly authorised extras within thirty days after the contractors shall have rendered to the engineer a statement of the balance due and shall have obtained and delivered to the corporation the final certificate of the engineer shewing the net balance payable to the contractors."

Prior to the 28th September, 1909, the contractors became involved and applied to the plaintiff for financial assistance. Up to that date, the plaintiff had furnished material for the work, amounting to $595,63, and had advanced in cash for labour and material $1,265.98; and the contractors, requiring still further advances, applied to the plaintiff, who agreed to advance for wages the further sum