

points, and when the fish arrived at their destination they were spoiled, and that the accident which caused the delay was one which could not have been avoided.

*Held*, that the trial judge erred in not submitting to the jury questions tendered on behalf of defendants and intended to secure the finding of the jury as to where the defendants were negligent or failed in their undertaking, such finding being material to the decision of the case.

The jury found in answer to the only question submitted that defendant company did not deliver the fish within a reasonable time, looking at all the circumstances of the case.

*Held*, that the latter finding was against the weight of evidence and could not stand and that there must be a new trial.

*Mellish*, K.C., in support of appeal. *W. B. A. Ritchie*, K.C., and *J. A. Fulton*, contra.

---

Full Court.]      PATTERSON v. CAMPBELL.      [Feb. 12.

*Bills and notes—Statute of Limitations—Payment by surety after statute has run—Does not give right to contribution as against co-surety.*

The makers of a joint and several promissory note are joint contractors within the meaning of the Statute of Limitations, R.S. 1900, c. 165, s. 5, and Lord Tenterden's Act and where such a note was entered into by plaintiff and defendant as sureties for C., the principal maker, and the note was dishonoured by C., and was paid by plaintiff after the Statute of Limitations had run as against the payee in favour of plaintiff and his co-surety.

*Held*, that such payment was voluntary on the part of plaintiff and that he could not by waiving in his own favour the defence of the statute, establish a claim against his co-surety for contribution.

*J. J. Ritchie*, K.C., in support of appeal. *Mellish*, K.C., contra.

---

Full Court.]      WOODWORTH v. LANTZ.      [Feb. 12.

*Land—Agreement to lease for lumbering purposes—Word "belonging"—Title acquired subsequentl. —Representations—Estoppel.*

Plaintiff entered into an agreement in writing with defendant to lease to defendant for the term of fifteen years, for