He had only put in a dispute notice and omitted the notice required for this particular defence. Looking at the amendment asked for as a matter of discretion—which it undoubtedly is—I have no hesitation in saying that had I been fully persuaded that there was really an unpaid debt due and owing from the defendant to these plaintiffs, I should have hesitated to allow the defendant to amend, because it would be using discretion in the aid of dishonesty, when there might have been no idea of setting up such a defence in the first instance; but, where the evidence is so evenly balanced as I consider to have been the case here, I think it my duty to allow the amendment and admit the defence set up at the trial, that there was no debt due the plaintiffs by the defendant within six years of the bringing of this suit.

The purpose of an amendment is that every action shall be disposed of after hearing and considering all the allegations on either side, which are or which can be properly advanced, by either party, according to the nature and justice of the case; and what belongs to equity and good conscience, so that no one is to be barred upon a mere slip or omission or technicality.

By R.S.O. 1897, c. 60, s. 312, it is provided that in any case not provided for by the Act or by existing rules, the judge may in his discretion adopt and apply the general principles of practice in the High Court to actions and proceedings in the Division Courts.

It was held by ARMOUR, C.J., in *White* v. *Galbraith*, 12 Prac. R. 513, that the section of the Division Court Act to which I have referred affords ample authority for a judge to permit a plaintiff to amend his claims in a Division Court suit.

The setting up a plea of the Statute of Limitations has been held by the higher courts to be a meritorious defence, and amendment of a plea involving such a defence is allowed to be set up at any time. See *Hamelyn* v. *Whyte*, 9 C.L.J.N.S. 363; 6 P.R. 120; *Seaton* v. *Fenwick*, 7 P.R. 146; *Maddox* v. *Holmes*, 1 B. & P. 228; *Rucker* v. *Hanning*, 3 T.R. 124; *Bridgman* v. *Smith*, 3 Chan. Ch. R. 318. In the case of *Longbottom* v. *Toronto* (1896) 27 O.R. 198, the want of notice of action was not raised until after the evidence had closed; a motion for a non-suit was refused. There was no preliminary objection raised to the statement of claim, and no observation was made as to want of notice till the close of the evidence, and it was just before the case went to the jury, the Chancellor, who tried the case, refused an amendment, saying he was unwilling to turn the plaintiff round on that point, taken at the very close of the contest. The exercise of judicial discretion, in that instance, was in every point of view reasonable; but it was peculiar in its circumstances, and unlike the facts and circumstances of this case. *Maddocks* v. *Holmes*, 1 B. & P. 230, is an authority in favour of the amendment asked for here. In that instance a judgment by default of a plea had been signed against the defendant, and a plea of the Statute of Limitations upon application to set aside the judgment was