

gives the right of set-off, the assignee has any greater right than the assignor. The assignee simply has the same right as the assignor to refuse to set off where the claim is not due at the critical date—the date of the writ in the one case and the date of the assignment in the other—save where the equity described exists. Where there is a statutory right to set off, the assignee takes a claim against which there is a valid legal defence.

The set-off to be allowed, and the money to be paid to Rosin.

RIDDELL, J., IN CHAMBERS.

DECEMBER 11TH, 1915.

*RE SOVEREEN MITT GLOVE AND ROBE CO. v.
CAMERON.

Division Courts—Territorial Jurisdiction—Action for Price of Goods—Contract—Place of Payment—Place of Delivery—Agency Contract—Counterclaim—Judgment—Admission—Defendant not Appearing at Trial—Motion for Prohibition—Delay.

Motion by the defendant for prohibition to the Fourth Division Court in the County of Norfolk.

The action was brought in that Court by the plaintiffs, a company manufacturing mittens and other goods at Delhi, in the county of Norfolk, in the territory of the Fourth Division Court, to recover from the defendant \$88.23, made up of \$82.83, the balance of the value of goods sold and delivered to him, and \$5.40 for interest. The defendant lived at Sudbury, in another county. He filed a dispute-note, in which he disputed the jurisdiction, admitted that the \$82.83 was due, alleged a set-off of \$132.25, and claimed \$65 damages for wrongful dismissal. He did not appear at the trial, and judgment was given against him for the \$82.83 and interest as claimed; it was said that his counterclaim was dismissed.

The judgment was given on the 21st July, 1915; the notice of motion for prohibition was not served until the 26th November; no application had been made to the Judge who heard the case in the Division Court, and no explanation of the delay was given.

C. M. Garvey, for the defendant.

W. H. Irving, for the plaintiffs.