

statement of claim was delivered on the 10th January, 1903. By the statement of defence, delivered on the 20th of the same month, defendant, besides making a general denial, challenged plaintiff's right to maintain the action, setting up that the father of the girl was living at the time of the alleged seduction (June, 1900), and did not die until 15th June, 1902. On 11th February, 1903, plaintiff replied asserting her right under R. S. O. ch. 69 to maintain the action, and alleging that she had sustained loss of service. At the trial plaintiff's counsel asked for leave to amend by setting up a further claim by plaintiff as the personal representative of the father, the plaintiff having obtained letters of administration to his estate on 4th March, 1902. The case was allowed to go to the jury, the question of amendment being reserved. The jury found the seduction proved, and that the daughter was not the servant of plaintiff, and they assessed the damages at \$500.

W. B. Craig, Renfrew, for plaintiff.

W. H. Stafford, Almonte, for defendant.

MEREDITH, C.J., held that the amendment should not be allowed to enable plaintiff to set up a new cause of action barred by the Statute of Limitations (sec. 10 of the Trustee Act, R. S. O. ch. 129, more than a year having elapsed since the death of the father), at the time the application to amend is made: *Darby & Bosanquet*, 2nd ed., p. 561, and cases there cited; *Hudson v. Fernyhaugh*, 61 L. T. R. 722; *Lancaster v. Moss*, 15 T. L. R. 476; *Bugbee v. Clergue*, 27 A. R. 96. Plaintiff maintained down to the trial that the cause of action for which she was suing was her own, and not that of her husband sued for by her in her representative capacity as the administratrix of his estate, and even at the trial she sought, not to withdraw entirely from that position, but to continue the action in her own right, and to add a further claim in right of her husband and in her representative capacity. The two causes of action are separate and distinct, and none the less so because they are asserted by the same person. Had someone else been the administrator, and an action had not been begun by him in time, the defendant would have been freed from all liability to him. Defendant is freed from the claim of plaintiff in her own right because she has failed to establish it against him, and from that of her husband's estate because no action in respect of it was begun within the prescribed period.

Action dismissed, but without costs.