

MASTEN, J., in a written judgment, stated that he agreed with the judgment just read by the Chief Justice, except in one respect. He was of opinion that with respect to the moneys of the Ladies Auxiliary Society the judgment of the trial Judge should be reversed and the account asked for by the plaintiffs should be directed.

Reference to *General Assembly of Free Church of Scotland v. Lord Overtoun*, [1904] A.C. 515, 630; *Murray v. Johnstone* (1896), 23 R. (Ct. of Sess. Cas., 4th series) 981.

The appeal should be allowed on this branch of the case and a reference directed.

With respect to the question whether the plaintiffs were entitled to maintain this action, it is plain that trustees may be sued in respect of club or society property vested in them, and in such an action are considered to represent the members financially interested therein, and in any action by or against members of the club or society one or more of the members may sue on behalf or for the benefit of them all: *Harrison v. Marquis of Abergavenny* (1887), 57 L.T.R. 360. The plaintiffs should amend, and the action should be brought, as regards this branch of the case, by a member suing on behalf of herself and all other members of the Ladies Auxiliary Society. In default of amendment, the appeal on this branch of the case should be dismissed.

If the amendments allowed were made, the plaintiffs should be allowed their costs down to and including this appeal; further directions and subsequent costs reserved.

SUTHERLAND, J., and FERGUSON, J.A., agreed with MASTEN, J.

*Appeal allowed in part.*

SECOND DIVISIONAL COURT.

NOVEMBER 18TH, 1920.

McDOWELL v. PROFFITT.

*Estoppel—Conduct Inducing Person to Believe in Non-existing State of Facts—Action Based on Such Conduct to Prejudice of Actor—Evidence—Failure to Shew Action Taken—Sale of Goods—Liability for Price.*

An appeal by the defendant Prack from a judgment of the County Court of the County of Ontario in favour of the plaintiff in an action for the price of goods alleged to have been supplied by the plaintiff to the two defendants.