

Upon the back of the order was endorsed a printed warranty by plaintiffs with certain blanks filled in.

The bindlochine was delivered to the defendant, and upon August 20th, 1894, she wrote to the plaintiffs saying that it did not work satisfactorily. On September 15th the plaintiffs commenced suit in the County Court, and the defendant not having appeared judgment against her was entered on September 28th for \$137.02 debt and \$11.92 costs taxed. A motion was thereupon made by the defendant to review the taxation on the ground that the cause of action was within the competence of the Division Court, and that the plaintiff was entitled only to costs on that scale.

Deacon, Q.C., for the motion, referred to *Re Graham v. Tomlinson*, 12 P.R. 367; *Wallace v. Virtue*, 24 O.R. 558.

W. S. Buell, *contra*, cited *In re Shepherd v. Cooper*, 25 O.R. 274; *Forfar v. Climie*, 10 P.R. 90; *Wiltsie v. Ward*, 8 A.R. 549; *Kinsey v. Roche*, 8 P.R. 515; *Robb v. Murray*, 16 A.R. 503.

MCDONALD, CO.J.: That under the terms of the order given by the defendant, the plaintiff, in case of a defence, could not recover upon mere proof of signature of defendant, and would have to prove something beyond, and that the claim was not one of those covered by the terms of the Act as to increased jurisdiction. He considered that the case of *In re Shepherd v. Cooper*, 25 O.R. 274, was in point, and that the judgment of Chancellor Boyd in that suit should govern in this action.

Motion dismissed with costs.

COUNTY COURT, COUNTY OF BRUCE.

[Jan. 24.]

ROBERTSON *v.* BURRILL.

Statute of Limitations—Letters of administration relate back to date of death.

One Agnes Robertson died November 24th, 1893, and as part of her estate left a note made by defendant, which was overdue, and on which no payment had been made since March 10th, 1888. Before taking out letters of administration the plaintiff corresponded with the defendant, and received a letter dated February 17th, 1894, written by the defendant's daughter, under the authority of the defendant, making an acknowledgment of the note. The defendant took out letters of administration on April 19th, 1894, and sued as administrator on the note.

H. P. O'Connor for the plaintiff.

D. Robertson and *C. J. Mickle* for the defendant.

BARRETT, CO.J.: The letters of administration relate back to the death of the deceased, so that an acknowledgment made to a person entitled to letters of administration prevents the operation of the statutes of limitation.