

Act, 1882 (45 & 46 Vict., c. 75) (R.S.O., c. 132), had not, as some text-writers had assumed, done away with paraphernalia, yet was of the opinion that to constitute a gift of paraphernalia it must clearly appear at the time of the gift that the husband's intention was that the wife was merely to have the use of the articles for her personal adornment, and that he was still to continue to be the owner of them. In the present case he considered the evidence established that the husband had made an absolute gift of the jewels to his wife, and that under the Married Woman's Property Act, 1882, they had become her separate property.

AGREEMENT THAT THIRD PERSON SHALL CONDUCT DEFENCE—RETAINER—WITHDRAWAL OF RETAINER—INJUNCTION—APPEAL.

The case of *Montforts v. Marsden*, (1895) 1 Ch. 11, was an action brought to restrain the defendant from withdrawing a retainer he had given to a solicitor to defend an action under the following circumstances: Montforts was the patentee of certain weaving machines, one of which he sold to the defendant Marsden. Marsden was sued, as the user of this machine, for an alleged infringement of patent by one Moser. Montforts endeavoured to get himself made a defendant to that action, but failed, and it was then agreed that he would defend the action on Marsden's behalf, agreeing to indemnify Marsden against all costs and damages in that action. In pursuance of this agreement, Marsden retained Montforts' solicitor "in the defence of this action and any appeals therefrom." The action was tried and dismissed by the judge of first instance, but, on appeal, the judgment was reversed, and the defendant Marsden ordered to pay costs. A petition of appeal to the House of Lords was then presented, but Marsden insisted on Montforts giving him further indemnity, and, on his refusal to do so, withdrew his retainer of Montforts' solicitor, and, acting through other solicitors, took steps to withdraw the appeal. The plaintiff sought to restrain him from interfering in any way with the prosecution of the appeal. The Court of Appeal (Lord Herschell, L.C., and Lindley and Smith, L.JJ.) were of opinion that the plaintiff was entitled to the relief claimed, but they required the plaintiff to undertake that his indemnity already given should apply to the costs of the appeal to the House of Lords, and on that undertaking the injunction was granted, but without costs.