

On the argument further affidavits were read on behalf of defendant, under O. 57, R. 5, to which plaintiff replied.

Held, that under the facts disclosed in the latter affidavits defendant should have an opportunity of substantiating the defence that plaintiff was not the legal holder of the bill, on paying into Court the amount of plaintiff's claim.

Plaintiff to have costs of the motion below. Costs of the appeal to be costs in the cause.

C. H. Cahan, for plaintiff.

W. B. A. Ritchie, Q.C., for defendant.

Full Court.]

[Jan 12.

ROBERTSON v. McKEIGHAN.

Husband and wife—Implied authority of wife to bind husband—Revocation of—Statute of Limitations—Payment on account—Sewing machine.

Defendant purchased a sewing machine from plaintiff in August, 1887, and paid \$14 on account sometime during the year. The action was brought October 24th, 1895. The Statute of Limitations was pleaded.

Held, that a payment of \$5 made by defendant's wife in February, 1893, was not sufficient to take the case out of the statute, the evidence showing that defendant had forbidden his wife to make further payments until the machine was put in order, and that this was never done.

Held, also, that any implied authority which the wife may have had previously was terminated by this prohibition.

Harris, Q.C., for plaintiff.

W. H. Fulton, for defendant.

Full Court.]

[Jan. 12.

GOURLAY v. McALONEY ET AL.

Attorney and client—Costs as between—Statute of Limitations, R. S., 5th series, c. 112—Runs from date of settlement of action—Registry Act—Acts of 1893, c. 27—Held not to be retroactive in its effect.

Plaintiff was retained September 26th, 1886, to act as solicitor in an action brought against defendants. Defendants subsequently, without consulting plaintiff, entered into an arrangement whereby the action was abandoned, each party paying his own costs. Plaintiff having sued to recover his costs as between solicitor and client,

Held, that the Statute of Limitations, R.S., 5th series, c. 112, as against plaintiff, commenced to run from the date of the settlement, and not from the date of the retainer.

The Act of 1893, c. 27, required every practising solicitor to obtain from the treasurer of the Barrister's Society before the first day of July, a certificate under the seal of the Society, stating that he had paid the required fees. S. 3 provided that no solicitor should be entitled to recover any charge in a court of law, or tax costs before any taxing master or judge, unless he held a certificate.