

Full Court.]

GROWELL v. SMITH.

[Feb. 7.

*Fishing voyage—Action for goods furnished, etc., in connection with—
Managing owner held not liable in absence of contract—Costs.*

In an action by plaintiff, part owner of a fishing vessel, against defendant, managing owner of the vessel, for supplies furnished and advances made to the captain and crew in connection with a fishing voyage, it appeared that prior to the time of the alleged furnishing of supplies, etc., the vessel was let to the captain on the quarter lay, viz., on terms that the captain and crew should prosecute the voyage, and should, at the end of the fishing season or sooner, dispose of the fish caught and render to the owners of the vessel one-quarter of the proceeds, the remaining three-quarters to be the property of the captain and crew.

Held, that there being no legal liability on the part of defendant it was incumbent upon plaintiff to establish a contract against defendant, and there being no evidence express or implied of such contract, the judgment entered for plaintiff at the trial should be reversed, and judgment entered for defendant with all costs.

McCoy, for plaintiff. *Drysdale*, for defendant.

Province of New Brunswick.

SUPREME COURT.

En Banc.]

VIOLET v. MARTIN.

[Feb. 9.

Security for costs—Temporary residence within province.

The plaintiff resided at VanBuren, Me., and removed across the line to New Brunswick, temporarily, for the purpose of bringing this action.

Held, on an application for security for costs, that her residence within the Province at the time of the application, though temporary and for the purpose of defeating an application for security of costs, was a sufficient answer to the application.

A. R. Slipp, for defendant. *C. E. Duffy*, for plaintiff.

En Banc.]

HICKS v. OGDEN.

[Feb. 9.

*Particulars—Amendment at trial—Affidavit of prejudice—Postponement—
Offer to suffer judgment.*

In opposition to an application for the amendment at trial of plaintiff's particulars by the addition of an item for an account stated, and an item for ten month's additional wages, defendant's attorney made affidavit that when he saw the plaintiff's claim was less than the payments made by defendant and his set-off, he did not in preparing for trial enquire particularly into the plaintiff's account, considering a judgment against plaintiff of no value; that had his claim contained the additional items sought to be added he would, had he found them to be correct,