

in 1883. His retirement was not gazetted, and the continuing members of the firm agreed with him to pay the liabilities of the firm. In pursuance of this agreement, they paid interest on the plaintiff's debt down to 1891. The question raised on the appeal was whether, having regard to the Mercantile Law Amendment Act (19 & 20 Vict., c. 97), s. 14 (R.S.O., c. 123, s. 2), this payment prevented the statute from running as against William Tucker, and the Court of Appeal (Lord Herschell, L.C., and Lindley and Davey, L.JJ.) were of opinion that it did, because the agreement made by William Tucker with the continuing partners for the payment of the debt of the firm had the effect of constituting them agents of William Tucker in respect of the payments made by them in pursuance thereof.

LIS PENDENS—PERSONAL ESTATE—ASSIGNMENT OF CHOSE IN ACTION—BOOK DEBTS—RECEIVER.

*Wigram v. Buckley*, (1894) 3 Ch. 483; 7 R. Nov. 136, was a contest between two assignees of the same choses in action, in which it was sought to apply the doctrine of *lis pendens*. A firm of traders had assigned to the plaintiffs all their book debts, but the plaintiffs omitted to give notice of the assignment to the debtors. The plaintiffs brought an action against the firm to enforce their security, which they registered as a *lis pendens*, and obtained an injunction and receiver, but no notice of the action or receiver was given to the debtors. Subsequently the firm assigned the same debts to a banking company, who gave notice to the debtors. The banking company had no notice of the plaintiffs' assignment, or of the action, or of the receiver, unless the registration of the *lis pendens* constituted constructive notice. They applied to get in the debts assigned to them, notwithstanding the appointment of the receiver. Chitty, J., refused the application, being of opinion that the doctrine of *lis pendens* applied; but the Court of Appeal (Lord Herschell, L.C., and Lindley and Davey, L.JJ.) unanimously reversed his decision, holding that the banking company were assignees for value without notice of the plaintiffs' prior assignment, over which they had acquired priority by reason of their having been the first to give notice to the debtors, and they were agreed that the doctrine of *lis pendens* has no application to personalty except chattels real. But even if it did, the Court of Appeal considered that the laches of the plaintiffs in omitting to give notice to the debtors was, of itself sufficient to prevent their claiming priority over the banking company.