

husband. That in this case the subsequent possession of the pictures was the wife's although the house was occupied by her husband and herself.

Held, also, that the effect of sub-s. 4 of s. 5 of R.S.O. 1897, c. 163, whereby it is enacted that a woman married since March 4, 1889, may hold her property free from the debts or control of her husband, "but this sub-s. shall not extend to any property received by a married woman from her husband during coverture," is not to make property received by the wife from the husband during marriage liable to the husband's debts. This sub-s. must be read in connection with s. 3, sub-s. 1, and a wife is placed precisely in the position of a feme sole with regard to property transferred to her by her husband during coverture; and therefore she can hold the property against his creditors unless the transfer is made for the purpose of defeating them; and there was no evidence of such purpose here.

John A. Meredith, for claimant. *J. H. Moss*, for execution creditor.

Province of Nova Scotia.

SUPREME COURT.

Full Court.] *RUGGLES v. VICTORIA BEACH RAILWAY CO.* [Feb. 21.

Defence arising after action—Costs—Judge's discretion.

Under the provisions of O. 24, r. 3, where any defendant in his statement of defence alleges any ground of defence which has arisen after the commencement of the action the plaintiff may deliver a confession of such defence, and may thereupon sign judgment for his costs up to the time of pleading such defence, unless the Court or a judge otherwise orders. In an action by plaintiff claiming damages for trespass to land taken by defendant company for railway purposes, to which a defence had been pleaded, the defendant company pleaded a defence arising after the commencement of the action, which plaintiff then confessed and entered judgment under the above rule for his costs. An application to set aside the judgment was refused on the ground that the defence necessarily operated as a waiver of the grounds previously set up, and that the judgment should not be set aside and the case sent to trial unless the defendant company agreed to withdraw the subsequent defence. An order having been thereupon made dismissing the application with costs,

Held, that the order should not be disturbed, the matter being one in the discretion of the judge, and that defendant's appeal therefrom must be dismissed with costs.

Wade, K.C., for appellant. *W. B. A. Ritchie*, K.C., for respondent.