

FULL COURT.]

[May 20.

GRAY v. N. & N. W. R. CO.

Appeal to Privy Council—Leave to appeal.

The plaintiffs in this case having applied for and obtained leave to appeal to Her Majesty in Council direct from the judgment of the Full Court, (noted ante p. 167) the defendants now applied to the Court under the Imperial Order in Council of the 26th November, 1892, regulating such appeals, to admit a cross-appeal to Her Majesty in Council from those portions of the decree to which they objected.

Defendants, however, had not applied for such leave within fourteen days after the pronouncing of the order of the Court, and, although the plaintiffs were willing to consent to the order being made, the Full Court nevertheless

Held, that they had no jurisdiction to make any order either to admit or refuse the appeal, the limit of their jurisdiction in the matter being to allow an appeal upon an application for that purpose made within fourteen days after the pronouncing of the order complained of, and even then such jurisdiction arises from implication only.

Flint v. Walker, 5 Moo. P.C. 179, *Retemeyer v. Obermuller*, 2 Moo. P.C. 293, followed.

Ewart, Q.C., for plaintiffs.

Phippen, for defendants.

North-West Territories.

WESTERN ASSINIBOIA JUDICIAL DISTRICT.

RICHARDSON, J.]

[May 2.

ARNOLD v. LASCELLES.

Partnership between husband and wife—Action by wife as surviving partner.

Plaintiff (a widow) sued as surviving partner of the firm of F. & M. Arnold (husband and wife) on indebtedness contracted by defendant to the firm of F. & M. Arnold.

For defendant it was contended that husband and wife cannot carry on business in partnership, and that the action must fail, as plaintiff was not executrix of the estate of F. Arnold, who had died intestate.

Held, on authority of *Eddows v. Argentine Loan and Mercantile Agency*, 62 L. T. 602, that a married woman can carry on business in partnership with her husband, and that plaintiff had a right of action as surviving partner of the firm of F. & M. Arnold.

Secord, Q.C., for plaintiff.

Robson, for defendant.

RICHARDSON, J.]

[May 16.

ROBB v. SIMPSON.

Interpleader—Assignment of chattels not in assignor's possession—Bona fide sale by judgment debtor of chattels with change of possession without notice to purchaser of writ of execution—Judicature Ordinance, sec. 337.

Simpson placed a *fi. fa.* goods in sheriff's hands issued on a judgment, *Simpson v. McVannell*, of 19th November, 1895 About the same time *McV.*