

to his wife; he was therefore not rightfully in possession as against the daughters; and, as the younger daughter had by R.S.O., c. III, s. 43, only five years after coming of age to begin proceedings, the action was barred as to these lands.

Other lands were conveyed to the wife by strangers in 1867 and 1869, of which the husband also remained in possession after her death.

Held, that the devise of these lands by her did not affect the right of her husband as tenant by the courtesy, and his possession was in that character; and, therefore, as to these lands, the action was not barred.

Gibbons, Q.C., and *George McNab*, for plaintiffs.

W. R. Meredith, Q.C., and *E. R. Cameron*, for the defendant.

Chancery Division.

Full Court.]

[Sept. 4.

STILLIWAY v. CITY OF TORONTO.

Municipal law—Action for negligence—Claim under R.S.O., 1887, c. 184, s. 531—Judgment against third party.

The plaintiff brought this action against the City of Toronto for damages for injuries sustained through a defective sidewalk. Before pleading the defendants applied under R.S.O., 1887, c. 184, s. 531, and obtained an order making O. a party defendant, and in their defence alleged that O. was responsible for the defect in the sidewalk.

O. also delivered a full defence to the action and took part by counsel at the trial.

A verdict was rendered for \$400 damages, and the jury found that O. was responsible for the cause of the accident.

After verdict the plaintiff applied for leave to amend the statement of claim by claiming directly against O., which leave was granted, and judgment entered against O. for the damages with full costs of suit, and dismissing the action with costs as against the city.

Held, that the amendment was rightfully allowed, and the judgment should not be disturbed.

Miller, Q.C., for the plaintiffs.

Biggar, Q.C., for the City of Toronto.

J. K. Kerr, Q.C., for the defendant, O.

Full Court.]

[Sept. 9.

THOROLD v. NEELON.

Company—Liability to contribute—Fully paid-up shares—Notice—Allowance of discount.

A railway company agreed to transfer to N., a director, a certain number of fully paid-up shares as security for payment of a loan of \$100,000, then made by N. to the company, and afterwards did transfer what purported to be fully paid-up shares to the number stipulated to him. An execution creditor, with writs of *fi. fa.* returned *nulla bona*, had brought this action against N., alleging the shares not to be fully paid-up, but that a sufficient sum remained due thereon to cover his judgment, and asking for an order against N. for payment accordingly. It appeared that seventy-five of the shares had formerly been part of a lot of 168 shares, held by D.B., who had paid in all \$3,750 to the company, which represented the par value of seventy-five shares. The directors resolved to treat the \$3,750 accordingly as payment in full of seventy-five of the 168 shares, and then got D.B. to transfer these seventy-five shares to N., in part compliance with their agreement with him. As to the balance of the shares transferred to N., it appeared that a discount had been allowed upon them, but N. had no knowledge of this fact.

Held, that the shares must be considered as fully paid up in the hands of N.

Collier for the plaintiffs.

W. Cassels, Q.C., for the defendant.

ROBERTSON, J.]

[Sept. 12.

RE COLLINGWOOD DRY DOCK COMPANY—
WEDDELL'S CASE.

Company—Winding-up proceedings—Statements as to shares in petition of incorporation—Liability to contribute.

In winding-up proceedings of the above company, it appeared that W. had in the petition for incorporation, declared that he had taken 250 shares of the capital stock of the company.

Held, that bearing in mind the provisions of the Ontario Joint Stock Companies Letters Patent Act, R.S.O., 1887, c. 157, s. 7, s. ss. 2, 3, 4; ss. 13, 30, 43, W. was liable to be held as a contributory to the amount of these shares.

The general scope of the Act shows that it was the intention of the legislature to compel persons who lend their names to establish a