

WILKINSON v. HAYES. JUDGMENT BY MR. JUSTICE R. C. CLUTE.

SARNIA AUTUMN ASSIZES, 1915.

Judgment.—I feel no reasonable doubt about this case. The onus was upon the plaintiff to establish her case. This, I think she has failed to do. There is no reason that I can see why I should not receive the evidence of Dr. Brandon. It is in conformity with that of the plaintiff herself. He says that she authorized it to be done, and that he told Dr. Hayes to perform the operation on both breasts. Dr. Hayes had not understood that before; he said he would not do it. I do not believe that would have occurred if the fact had not been as it actually was, namely, that he was authorized. So that as to that point I accept the evidence of Dr. Brandon as consistent with the facts, and I think that Dr. Hayes did precisely what he was told to do; and, if it were necessary, I should find that he was authorized by Dr. Brandon to do what he did; and, being authorized, that he was justified in doing what he did, having regard to the professional relationship that existed between Dr. Brandon and the plaintiff. Then there is the evidence given by Dr. Ferguson—their own witness—that the injuries complained of could not be attributed to the operation. And there is no other evidence to support the plaintiff's evidence that this is false. So that I think on all points the plaintiff has failed. She did not realize that a wrong was being done. It is impossible for me to think that she would have remained in the hospital, the doctor visiting her from day to day and not a word of complaint if the wrong complained of had been done her. If I had to hold on that point I should have no hesitation in saying that I should think what Dr. Hayes did was good practice, whether he was authorized or not, having regard to the malady and the danger which would be incurred if he did not do it. The action must be dismissed.

LOSES VACCINATION CASE.

The Judicial Committee of the Privy Council, London, has dismissed the petition of Mrs. Roilard for special leave to appeal against the judgment of the King's Bench, Quebec, in favor of the city of Montreal. Mr. Haffeur, K.C., who appeared for the widow, said the case raised for the first time before the courts of the Province the question of the responsibility of municipal corporations arising out of the enforcement of compulsory vaccination by-laws. The petitioner brought