

People's Loan and Deposit Co. v. Grant, 18 S. C. R. 275. The Chief Justice then dealt with two other questions raised by the appeal, as follows:—

As to the non-allowance of credits, this appears to be founded on accounts laid before the Surrogate Court, and, as explained, they do not appear to shew payments or allowances of which the defendant is entitled to the benefit, save those with which he is credited in the statement (exhibit 8) of the computation of the amount due to the plaintiffs.

As to the award of costs against the defendant, the action was properly constituted at the time of, if not before, the trial. And the costs relating to the addition of Smith as a co-plaintiff were dealt with by the Master in Chambers.

The defendant did not then submit to pay, but contested the action throughout, and, having failed, there appears no good reason why he should not bear the costs.

The appeal should be dismissed with costs.

MEREDITH, J.A., concurred, for reasons stated in writing.

GARROW and MACLAREN, JJ.A., also concurred.

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NOVEMBER 15TH, 1909.

WESTON v. PERRY.

*Husband and Wife—Alienation of Husband's Affections—Cause of Action.*

Appeal by the plaintiff from an order of a Divisional Court dismissing the plaintiff's appeal from an order of MAGEE, J., at nisi prius, striking out paragraph 2 of the statement of claim, which charged the defendant with enticing the plaintiff's husband from her.

The appeal was heard by MOSS, C.J.O., OSLER, GARROW, MACLAREN, and MEREDITH, JJ.A.

J. B. Mackenzie, for the plaintiff.

T. N. Phelan, for the defendant.