

was restricted to an action on the case for any special damages that might she be able to prove.

Held, that there was not sufficient evidence that any interest was in arrear on the mortgage or any rent overdue, and that the agreement entered into by the plaintiff's husband could not be construed as an admission that any rent was due by Robertson, and therefore that the case was not brought within the last mentioned statute.

Verdict of KILLIAM, J., at the trial, giving the plaintiff \$529 damages, affirmed with costs.

Ewart, Q.C., and *Wilson*, for plaintiff.

Clark, for defendants.

Full Court.]

[June 29.

WATEROUS ENGINE WORKS CO. v. WILSON.

Contract—Retrospective legislation—Implied covenant—Lien on land—Promissory notes—Statute of limitations.

Judgment of BAIN, J., (noted ante page 298) affirmed.

In addition the following may be noted :

Defendants had given promissory notes to secure the price of the engine and the plaintiffs' remedy on the notes was barred by the Statute of Limitations before the commencement of the action.

Held, notwithstanding, that their claim for payment of the purchase money, being secured by a contract under seal, was not barred.

The promissory notes referred to being put in evidence, appeared by the indorsements to have been held by a bank at maturity, and defendants claimed that the right of action was not in the plaintiffs, but they had not raised this defence by their pleadings or at the trial.

Held, that effect should not be given to it now, as plaintiffs might have been able to show that the notes had only been indorsed for collection, or had been taken up since by them.

Ewart, Q.C., and *Sutherland*, for plaintiffs.

Clark, for defendants.

Full Court.]

[June 29.

RE CLOUTIER.

Municipality—By-law—Early closing of shops—Delegation of powers.

This was an appeal from an order of TAYLOR, C.J., dismissing an application to quash a conviction made under by-law 858 of the city of Winnipeg. This by-law prevented the appellant from keeping his shop open after 7 o'clock in the evening, except on Saturdays, and on the day immediately preceding any civic holiday, and during the days on which the exhibition of the Winnipeg Industrial Exhibition Association is being held. It was contended on behalf of the city of Winnipeg and the Retailers' Association that this by-law was valid, under the Shops Regulation Act, R.S.M., ch. 140, sec. 3, as amended by 57 Vict., ch. 32, sec. 2, which provides that any municipal council may, by by-law, require that, during the whole or any part or parts of the year,