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\*May 10.

## JOHNSTON v. DESAULNIERS.

ON APPEAL FROM THE COURT OF APPEAL FOR MANITOBA.

*Gift—Infant—Money received—Pleading—Evidence—Presumption—  
Proceeds of prostitution—Conversion—Lien.*

APPEAL from the judgment of the Court of Appeal for Manitoba(1), reversing the judgment of Cameron J., at the trial, and maintaining the plaintiff's action with costs.

The plaintiff (respondent), an infant, and the appellant lived together in adultery and, during the time they were so living together as husband and wife, she handed various sums of money, obtained by prostitution, to the appellant, who used part of it in purchasing a hotel property. In an action against the respondent for money received for the use of the plaintiff the defence was simply a denial of the allegation in the statement of claim. At the trial, Cameron J. dismissed the action, being of opinion that the evidence shewed that the plaintiff had given the money to the defendant to deal with as he pleased. By the judgment appealed from, this decision was reversed, the court below holding that, in the circumstances, there could be no presumption of gift, and, as the plea simply denied the debt, the plaintiff was entitled to recover the sum claimed by her and to a charge or lien on the defendant's interest in the hotel property for the amount of her claim and costs.

On the appeal to the Supreme Court of Canada, the

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\*PRESENT:—Girouard, Davies, Idington, Duff and Anglin JJ.

(1) 20 Man. R. 64.

court heard counsel for the appellant and, without calling upon counsel for the respondent, dismissed the appeal with costs.

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*Appeal dismissed with costs.*

*Cohen* for the appellant.

*Blackwood* for the respondent.