

\$2,500 and interest payable annually at 6 per cent. The principal was to be paid in 13 annual instalments, 12 of \$200 each and the last of \$100, on the 1st April, 1914, and following years. The plaintiff duly paid the first year's interest and \$200 on account of principal. Nothing further was paid either for principal or interest up to the next gale-day, and the plaintiff was then in default. On the 8th April, 1915, the Mortgagors and Purchasers Relief Act, 5 Geo. V ch. 22, was passed. On the 17th May, 1915, the plaintiff paid Perrin \$182.41. The year's interest due on the 1st April, 1915, amounted to \$138. The plaintiff said that he asked Perrin to apply the \$182.41 wholly towards interest—i.e., to apply \$44.41 towards future interest. On the 10th November, 1915, the plaintiff paid \$70; and he made a further payment of \$125 on the 1st May, 1916.

The learned Judge finds on the evidence that the two sums of \$44.41 and \$70 were intended to be and were in fact paid by the plaintiff in reduction of the instalment of \$200 which had fallen due on the 1st April, 1915.

The plaintiff from time to time made further payments to Perrin, but at no time had he fully paid the amount due for interest, and he was continually in arrear until the autumn of 1919. On the 1st November, 1919, Perrin gave the plaintiff notice of his intention to proceed under the power of sale, claiming \$2,347.06 and interest as due. The plaintiff delivered to Perrin a notice disputing the amount claimed and requiring that an account be taken by the Local Master at Haileybury, and also claiming the benefit of the Mortgagors and Purchasers Relief Act. A hearing took place before the Local Master, who was also a Local Judge of the Supreme Court, and as such Judge he made an order, styled in the Supreme Court of Ontario, upon an application by Lusk for an order refusing permission to Perrin to continue proceedings, whereby, he "refused permission to continue proceedings," etc.

The plaintiff set up this order as having established that there were no arrears of interest, but upon an application under the Mortgagors and Purchasers Relief Act the Judge is not concerned with interest at all. The order was in fact irregular. The Act gives the Judge power to grant or refuse leave upon an application by the mortgagee. It does not give power to a Local Judge, upon an application by the mortgagor for an order refusing leave, to make any such order.

In January, 1920, the plaintiff left the mortgaged premises. When he returned, on the 9th February, he found Perrin in occupation of the dwelling house on the premises. Perrin refused to leave, and, with the aid of the defendant Runnett, cut and removed