

on the Court to make such an order. The executor should be granted authority to register a caution under R.S.O. 1914 ch. 119, sec. 15 (d), and the plaintiff's motion should be dismissed. When the estate has been realised, if there shall be a surplus after payment of the obligations referred to in the executor's affidavit, he is to pay the plaintiff's costs of this motion and retain his own costs thereof (the latter as between solicitor and client), and be allowed both in passing his accounts. H. E. McKittrick, for the plaintiff. J. G. Farmer, K.C., for James and William Weir.

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JOSS V. FAIRGRIEVE—FALCONBRIDGE, C.J.K.B.—MAY 26.

*Practice—Ex Parte Order—Rules 213-216—Extending Time for Moving against Order—Rule 217—Setting aside Order, Execution, and Appointment for Examination of Judgment Debtor—Motion to Commit Judgment Debtor—Renewal of Judgment and Execution.*]—Motion by the defendant to set aside or for leave to appeal from an order of the Master in Chambers of the 15th April last, made upon the ex parte application of the plaintiff, allowing the plaintiff to issue execution; and motion by the plaintiff to commit the defendant for not appearing for examination as a judgment debtor. The learned Chief Justice said that the Master's order of the 15th April ought not to have been made ex parte. Rules 213 to 216 differ from the old Consolidated Rules. Order made extending the time to move to rescind under Rule 217, and setting aside the order of the 15th April and the writ of execution issued pursuant thereto and the appointment for the examination of the defendant as a judgment debtor. The plaintiff's motion for committal of the defendant was dismissed. Costs of both motions to the defendant, to be set off pro tanto against the plaintiff's judgment. O. H. King, for the defendant. M. Wilkins, for the plaintiff.