

19. **Finding as to value.**—The trial Judge, from materials before him, having arrived at a conclusion as to the value of goods in question, this is a matter which above all matters the Court of Appeal will not disturb.

Burke v. Roberts, 27/445.

20. **Judge may correct order—Recourse is by appeal.**—At the conclusion of a trial an order by consent was taken, awarding plaintiff one dollar damages. The Judge, afterwards learning that it also included costs, on motion of the defendant, amended the order to read, "without costs to either party." This plaintiff declined to accept, contending that his consent was based on the supposition that the intention was to award costs.

Held, that the Judge had undoubted power to amend the order. That plaintiff's only recourse was by appeal from the amendment. That the prothonotary must receive and file such an order. Being merely a ministerial officer, he could not decide as to whether the order "had been rendered abortive by the learned Judge."

McDougald v. Mullins, 30/313.

21. **Habeas corpus.**—There is no appeal from the order of a competent tribunal discharging an applicant from custody.

Re E. G. Blair, 23/225.

22. **Supreme Court of Canada.**—The original jurisdiction of the Judges of the Supreme Court of Canada in habeas corpus will not be exercised to review an application dismissed by the Supreme Court of Nova Scotia.

Re Patrick White, 31 S.C.C. 383.

23. **Improvident appeal by executor.**—Costs on failure ordered to be paid by him, personally, not out of estate.

See PROBATE COURT, 11.

24. **Receiver.**—A receiver appointed to wind up an insolvent partnership, successfully, appealed from an order directing him to pay over monies collected, to a single creditor. To an objection that

he had appealed without leave:—Held, by taking that course he merely ran the risk of not being entitled to reimbursement for his costs if he failed.

O'Brien v. Christie, 30/145.

25. **Rescinding order dismissing action.**]

—Sembly, where the plaintiff has been heard on a motion to dismiss his action for want of prosecution under O. 34, R. 23, he loses his right to apply to rescind the order granted, though the order be irregular, and must proceed by way of appeal therefrom.

Nelson v. Studivan, 23/189.

26. **Order dismissing action—O. 34, R.**

24.]—Where an appeal lies, and where the recourse is confined to an application to restore within six days under the rule.

See PRACTICE, 16.

27. **Re-taxation of costs—C. 36, Acts of 1885,** creating the office of Taxing Master, does not affect the right to re-taxation before a Judge (O. 63, R. 23).

On appeal from such a re-taxation, the Court will only interfere in an extreme case, the discretion of the Judge being ample.

Palgrave Gold Mining Co. v. McMillan, 31/198.

28. **Appeal after discontinuance.**]

—January 15th an order was made at Chambers dismissing, with costs, an application to set aside a writ served out of the jurisdiction, on defendants who were not British subjects. January 27th the plaintiff discontinued the action. February 3rd defendants appealed from the order of January 15th:—Held, they could not at that date assert their appeal.

Weatherbe v. Whitney, 29/97.

29. **Null proceeding—Certiorari where**

**no appeal.**—On an application for certiorari to remove the matter of a decree of the Probate Court, it was objected that certiorari could not be had because the decree read in favor of the applicant:—Held, that as the decree was a nullity for want of jurisdiction, there was no