

[Feb. 11.]

MCINTYRE *v.* CROCKER.*Dower—Procedure—Powers of commissioners—R.S.O., c. 56, s. 12, s-s. 3.*

Appeal from the report of the commissioners in the Dower Procedure Act.

Where dower was claimed in certain property consisting of lands upon which stood two-thirds of a building, the remaining third of the building being upon the adjoining land, which was not dowable,

*Held*, that this was not a case within s-s. 3 of s. 12 of the Dower Procedure Act in which the commissioners had power to assess a yearly sum of money in place of assigning dower by metes and bounds.

There was plainly nothing in this case to prevent an assignment by metes and bounds; it is a case in which at common law such an assignment only would have been valid. But the commissioners were not bound necessarily to assign a portion of the buildings upon the property, but might give an equivalent. They must, however, assign one-third of the whole property, having regard to value as well as quantity.

*W. H. Blake* for the appeal.

*E. D. Armour, Q.C., contra.*

FERGUSON, J.]

[Feb. 23.]

ALDRICH *v.* ALDRICH.

*Division Courts—Jurisdiction—Action on judgment of High Court—Alimony—Final judgment—R.S.O., c. 51, s. 70 (b).*

Motion for prohibition.

*Held*, that the Division Courts have jurisdiction to entertain an action brought upon a judgment of the High Court where the judgment of the High Court is a final judgment.

In an action for alimony, the plaintiff recovered judgment against the defendant for \$211.39 taxed costs, and for alimony at the rate of \$226.00 per year, payable in equal quarterly instalments at specified times.

*Held*, that the judgment, so far as it related to the costs, was a final judgment, whatever might be the case with regard to the payments of alimony, and that as the law implied a promise or contract by the defendant to pay the amount of the costs thus adjudged against him a Division Court had jurisdiction under R.S.O., c. 51, s. 70 (b) to entertain a suit against the plaintiff for \$100 in respect to the said costs, as being a claim for a debt owing to the plaintiff by the defendant, the plaintiff expressly abandoning the balance of the taxed costs awarded as aforesaid.

*H. T. Beck* for the motion.

*W. Riddell, contra.*