

MacLennan, J.A.] EVANS v. TOWN OF HUNTSVILLE. [April 11.

*Payment out of court—Money paid in as security for costs of appeal—  
Surplus—Execution creditor—Stop order—Agreement with solicitors.*

The defendants, having in the hands of the sheriff an unsatisfied execution against the plaintiff for the costs of the action, and having obtained a stop order against the sum of \$200, paid into court by the plaintiff as security for the costs of an appeal to the Court of Appeal, which had been dismissed with costs, was held entitled to payment of the surplus of the \$200, after satisfying their costs of appeal, to be applied on their costs of the action, an agreement alleged by the plaintiff between him and his solicitors, that the surplus should belong to them to be applied upon their costs, not having been satisfactorily established.

Hewson, K.C., for defendants. J.E. Jones, for plaintiff.

Osler, J.A.] WALLACE v. BATH. [April 13.

*Court of Appeal—Notice of intention to appeal—Rule 799—Time—Pro-  
nouncing or entry of judgment.*

A judgment in a mechanic's lien action, tried by a local Master, was signed March 12, but dated Feb. 24, being the day on which the Master had signed a memorandum of his findings, a copy of which he on the same day sent by mail to the solicitors for each of the parties. The memorandum contained no reference to the costs of the action, but they were disposed of by the judgment as signed. There was no arrangement between the solicitors and the Master that his findings were to be sent by mail.

*Held*, that the month within which notice of intention to appeal from the judgment must, by Rule 799, to be given, ran from the signing of the judgment on the 12th March.

R. McKay, for plaintiffs. F.E. Hodgins, K.C., for Playfair-Preston Co.

Trial—Anglin, J.] BLACK v. WHEELER. [April 15.

*Costs—Scale of—Trespass to land—Title—Pleading—Amendment—Terms—Discretion.*

In an action in the High Court for trespass to land, of greater value than \$200, the plaintiff alleged his tenancy and occupation; the defendant, in his statement of defence denied both, and asserted title and right to possession in himself, and also pleaded leave and licence. About two weeks before the trial the defendant gave notice of motion for leave to amend by withdrawing his denial of the defendant's tenancy and occupation, and expressly admitting both, and withdrawing his own claim to right