

MCMASTER v. HECTOR.

Computation of subsequent interest.

Former practice in respect to computation of subsequent interest now altered, except in certain cases. Subsequent interest should be computed upon the aggregate of principal, interest and costs, which the puisne incumbrancer has paid for redemption money.

Upon the principal money, subsequent interest should be regulated by the rate fixed in the mortgage security—upon the interest and costs, only statutory interest should be computed.

[June, 1872, *Mr. Boyd.*]

This was a foreclosure suit in which a second mortgagee had redeemed the plaintiff. A question arose as to what subsequent interest should be allowed the party who redeemed.

MR. BOYD.—By the old practice of the court, a Master's report computing interest on the principal money secured by mortgage, ascertaining what was due and fixing a time for payment, was equivalent to a judgment at law in converting such interest into principal money. If the sum so found due was not paid, subsequent interest would be computed on the whole, interest and principal, *Bacon v. Clerk*, 1 P. Wms. 478; *Creuze v. Hunter*, 2 Ves. Jr. 159; *Perkyns v. Baynton*, 1 B. C. C. 574. The same rule applied where part of the sum found due by the report consisted of costs, *Bickham v. Cross*, 2 Ves. Sr. 471; *Bruere v. Wharton*, 7 Sim. 483. The old rule, however, is now otherwise, and only the principal carries interest, except where a favour is asked by the mortgagor in the way of extending the time for payment, *Wharton v. Cradock*, 1 Keen, 267; *Holford v. Yates*, 1 K. & J. 677; *Whitfield v. Roberts*, 7 Jur. N. S. 1268, and where a later mortgagee or incumbrancer pays off a prior mortgagee under a foreclosure or redemption decree, *Thackuray v. Bell*, Fish. on Mortgages, app. 671; *Daniell*, prac., 4th ed., p. 1125; *Seton*, 144, 375, 439.

Subsequent interest, therefore, should be computed upon the aggregate of principal, interest, and costs, which the puisne incumbrancer has paid for redemption money. This, in *Seton*, is said to be "the settled practice of the court," page 375. As to the rate of interest upon the principal money, that should be regulated, I think, by the rate fixed in the mortgage security, which has been redeemed. In the present case that is 3 per cent.: to lessen it would be to give the mortgagor a benefit which he has no right to claim. Subsequent incumbrancers cannot complain that the same rate of interest is maintained till the mortgagor himself redeems. The incumbrancer who redeems is substantially in the position of an assignee of the mortgage. As to the subsequent interest upon interest and costs, that being allowed by the *cursum curia* should be not eight per cent. as in the mortgage, but only the statutory rate of six per cent.; see *Astley v. Powis*, 1 Ves. Sr., 496.

APPOINTMENTS TO OFFICE.

COUNTY JUDGE.

DANIEL MACAROW, of the Town of Picton, of Osgoode Hall, Esquire, Barrister-at-Law, to be Judge of the County Court of the County of Prince Edward. (Gazetted July 27th, 1872.)

DEPUTY JUDGE.

JAMES ALEXANDER HENDERSON, of the City of Kingston, of Osgoode Hall, Esquire, Barrister-at-Law, to be Deputy Judge of the County Court of the County of Frontenac. (Gazetted June 22nd, 1872.)

SHERIFFS.

JAMES FLINTOFF, of the Town of Sarnia, Esquire, for the County of Lambton, in the room and stead of James Flintoff, Esquire, resigned. (Gazetted July 6th, 1872.)

GEORGE KEMPT, of the Town of Lindsay, Esquire, for the County of Victoria, in the room and stead of Neil McDougall, Esquire, deceased. (Gazetted July 20th, 1872.)

COUNTY ATTORNEY.

JOHN O'DONOHUE, of Osgoode Hall, Esquire, Barrister-at-Law, to be County Attorney in and for the County of York, in the room and stead of Rupert Mearse Wells, Esquire, resigned. (Gazetted Sept. 14th, 1872.)

DEPUTY CLERK OF THE CROWN AND CLERK OF THE COUNTY COURT.

JOHN YATES ELWOOD, of Osgoode Hall, Esquire, Barrister-at-Law, for the County of Huron. (Gazetted September 14th, 1872.)

INSPECTOR OF DIVISION COURT CLERKS.

JOSEPH DICKEY, of the Village of Uxbridge, Gentleman, Inspector of the Offices that are not situated in County Towns throughout the Province of Ontario. (Gazetted September 28th, 1872.)

NOTARIES PUBLIC FOR ONTARIO.

GEORGE WILLIAM HERBERT BALL, of the Town of Galt, Esquire, Barrister-at-Law.

JAY KETCHEUM, of the Town of Lindsay, Gentleman, Attorney-at-Law. (Gazetted June 1st, 1872.)

HENRY HATTON STRATHY, of the Town of Barrie, Esquire, Barrister-at-Law.

EDWARD BURNS, of the Village of Elora, Esquire, Barrister-at-Law. (Gazetted June 8th, 1872.)

LINDSAY HALL, of the Village of Aurora, Esquire, Barrister-at-Law. (Gazetted June 15th, 1872.)

JOHN CRERAR, of the City of Hamilton, Esquire, Barrister-at-Law.

JOHN FRANCIS CAMPBELL BALDAN, of the Town of Dundas, Gentleman, Attorney-at-Law. (Gazetted June 22nd, 1872.)

HENRY ALFRED WARD, of the Town of Port Hope, Esquire, Barrister-at-Law. (Gazetted June 29th, 1872.)

FRANCIS HENRY CHRYSLER and **PHILEMON PENNOCK**, junior, of the City of Ottawa, Esquires, Barristers-at-Law. (Gazetted July 6th, 1872.)

JOHN HOSKIN, of the City of Toronto, Esquire, Barrister-at-Law, and **GEORGE REDMOND**, of the Town of Brockville, Gentleman, Attorney-at-Law. (Gazetted June 20th, 1872.)

GEORGE WASHINGTON BADGEROW, of the City of Toronto; **VALENTINE MCKENZIE**, of the Town of Brantford; **JAMES O. LOANE**, of the Town of Stratford; and **G. LEFROY MCCAUL**, of the Town of Guelph, Esquires, Barristers-at-Law; and **IVAN O'BEIRNE**, of the Town of Peterborough, Gentleman, Attorney-at-Law. (Gazetted July 27th, 1872.)

JOHN CRICKMORE, of the City of Toronto, and **THOMAS GREIG**, of the Village of Carleton Place, Esquires, Barristers-at-Law; and **FREDERICK WILLIAM MONRO**, of the City of Toronto, Gentleman, Attorney-at-Law. (Gazetted August 3rd, 1872.)

WILLIAM M. MERRITT, of the Town of Guelph, Barrister-at-Law. (Gazetted August 10th, 1872.)

JOHN ARTHUR WELLESLEY HATTON, of the Village of Cayuga, Esquire, Barrister-at-Law. (Gazetted August 17th, 1872.)

ROBERT C. SMYTH, of the Town of Brantford, Esquire, Barrister-at-Law. (Gazetted August 31st, 1872.) **ALFRED PASSMORE POUSSETTE**, of the Town of Peterborough, Esquire, Barrister-at-Law; and **PETER MCGILL BARKER**, of the City of Toronto, Gentleman, Attorney-at-Law. (Gazetted Sept. 21st, 1872.)