

WHALEY v. WHALEY—FERGUSON, J.A., IN CHAMBERS—
MAY 18.

Appeal—Extension of Time for Appealing to Appellate Division—Terms—Costs.]—Application by the plaintiff to extend the time for appealing from an order of MASTEN, J. In a short memorandum, FERGUSON, J.A., said that, upon the plaintiff abandoning all claim to interim alimony and disbursements, and, within five days after the 19th May, paying to the defendant, through his solicitors, as costs thrown away by the plaintiff's default, the sum of \$125, the plaintiff's time for appealing from the order of Mr. Justice Masten would be extended: the notice of appeal to be served within two days after payment, and the appeal to be set down within two days thereafter. On default application refused. Counsel did not raise any question as to the plaintiff's right to appeal without leave. J. F. Boland, for the plaintiff. A. W. Langmuir, for the defendant.

HIGH COURT DIVISION.

MIDDLETON, J.

MAY 15TH, 1917.

TOWN OF BURLINGTON v. COLEMAN (No. 1).

Highway—Dedication—Registered Plan—Sale of Lots according to Plan—User of Road by Public—Municipal Act, R.S.O. 1914 ch. 192, sec. 433—Surveys Act, R.S.O. 1914 ch. 166, sec. 44—Amendment to Original Statute—Retroactive Effect—Application to Townships.

Action by the Corporation of the Town of Burlington to establish its title to a small piece of land situate in the town between the Grand Trunk Railway and the lake, asserted to be part of Maple avenue, to compel the defendant to remove a building therefrom, and to restrain the defendant from trespassing.

The defendant denied that the land in question now or ever formed part of Maple avenue—which, he alleged, did not go to the water's edge. He claimed title in himself by virtue of certain conveyances.