

Howell, C.J.M., Richards, Perdue  
and Cameron, J.J.A.]

[15 D.L.R. 261.]

WILLIAMS v. BOX.

*Interest—When recoverable—Mortgages—Fund in court representing mortgaged property.*

On taking mortgage accounts consequent upon the opening of a foreclosure decree to permit a mortgagor to redeem, the mortgagee should not be compelled to accept a smaller rate of interest which the fund representing the land in question was actually earning by reason of the land having been taken for railway purposes and the price thereof having been paid into court; the mortgagee should in such case receive the full contract rate for which his mortgage provided.

*Williams v. Box*, 12 D.L.R. 90, reversed.

*Mortgage—Mortgagee in possession after foreclosure—Loss of rents from non-repair.*

While acting as owner following a final order of foreclosure in his favour regularly obtained, and up to the time when the court, exercising its equitable powers and not for any irregularity in the final order, opened the foreclosure and gave the mortgagor liberty to redeem, the mortgagee was under no obligation to repair or to keep up the buildings on the mortgaged lands, or to try to obtain tenants, and, therefore, his mortgage account is not subject to surcharge as for rents which might have been, but were not, obtained by him.

*Williams v. Box*, 12 D.L.R. 90, reversed.

*J. B. Coyne and J. Galloway*, for plaintiff. *J. W. Baker*, for defendant.

KING'S BENCH.

Galt, J.]

RE BUCHANAN.

[15 D.L.R. 232.]

*Prohibition—Appeal by informant from dismissal of accused on summary trial—Adjournment—Appeal—Summary trial—Jurisdiction—Remedies.*

*Held*, 1. Prohibition lies to prevent a County Court entertaining an appeal launched by an informant from the decision of a police magistrate dismissing on summary trial a charge of an indictable offence, on the ground that no appeal lies; and the prohibition motion is properly brought as soon as the notice