

MACLENNAN, J.A.]

[Sept. 19.]

FERGUSON v. COUNTY OF ELGIN.

Contempt of court—Disobeying injunction—Motion to quash appeal.

The fact that a party to an action is in contempt is no bar to his proceeding with the action in the ordinary way, but only to his asking the court for an indulgence.

And where the defendants received certain moneys in disobedience to an interim injunction, which was made perpetual by the judgment at the trial, a motion by the plaintiff to quash the defendants' appeal from the judgment was refused.

James A. McLean for the plaintiff.

W. H. Blake for the defendants.

MASTER IN CHAMBERS.]

[Sept. 20.]

Codd v. Delap.

Security for costs—Plaintiff leaving jurisdiction to avoid arrest.

Where the plaintiff after the commencement of the action left the province to escape arrest under orders of committal for contempt of court in other actions, he was ordered to give security for costs.

G. G. Mills for the plaintiff.

Bristol for the defendants.

MASTER IN CHAMBERS.]

[Sept. 21.]

MILES v. BROWN.

Costs—Executors—Mortgage action—Personal order.

Where an action to enforce a mortgage by foreclosure is brought against the executors of a deceased mortgagor, and an order for payment of the mortgage debt is, in addition, asked against the executors, only the additional costs occasioned by the latter claim should be taxed against the executors personally.

Boland for the plaintiff.

T. W. Howard for the defendants.

ROSE, J.]

[Sept. 25.]

BARRY v. HARTLEY.

Costs—Taxation—Discontinuance—Rule 641.

Where the plaintiff serves notice of discontinuance under Rule 641, the defendant is entitled to a reasonable time within which to apply for an appointment to tax his costs, and until after the lapse of that time an appointment will not be granted to the plaintiff, even where he is entitled upon the final taxation to tax interlocutory costs, which may exceed the defendant's general costs.

Under Rule 641 it is not necessary for the plaintiff to ascertain the amount of the defendant's costs, and pay them, to make the notice of discontinuance effectual.

George Ross for the plaintiff.

G. G. Mills for the defendant.