

something in respect of it; but it was difficult to ascertain the exact amount, upon the evidence—the main uncertainty being as to the rate charged per week. Upon a close examination of the evidence, the learned Judge was of opinion that the amount allowed should be that claimed by the appellant, deducting items for money lent and a bar-account. Appeal allowed with costs, and amount at which claim allowed increased accordingly. J. E. Caldwell, for the appellant. E. P. Gleeson, for the executors, respondents.

MACDONELL v. KEEFER—LATCHFORD, J.—MARCH 16.

Mortgage—Action on—Title of Mortgagee—Failure to Impugn—Evidence—Amount Due—Interest.—Action on a mortgage for \$9,000 made by the defendant to the original plaintiff, Eleanor Macdonell, who died in April, 1917. The action was continued in the name of Angus J. Macdonell, her sole executor, as plaintiff. The defendant admitted the execution of the mortgage, and was recognised as entitled to credit for \$1,740.43. No other moneys were at any time paid on account of the mortgage. There was due upon it when the action was begun, in July, 1916, the sum of \$11,882.22; and, if the mortgage was valid, the plaintiff was entitled to recover that amount from the defendant with subsequent interest. The action was tried without a jury at Kingston. LATCHFORD, J., in a written judgment, said that the defences were numerous, peculiar, and involved. In effect, the defendant disputed the title of the mortgagee. Transactions extending back to 1888 were set up by the defendant. The learned Judge reviewed the evidence and said that no defence was established. Judgment for the plaintiff for \$11,882.22, with interest at 7 per cent. from the 3rd July, 1916, and costs. J. L. Whiting, K.C., and J. M. Farrell, for the plaintiff. Peter White, K.C., for the defendant.