fulfilled and the plaintiff subsequently brought an action, and obtained a reference to take an account of the partnership dealings. The report found *inter alia* that the plaintiff had contributed to the partnership capital $87.39, and the defendant $233.89, and that there was due from the defendant to the plaintiff $43.74.

The taxing officer taxed the plaintiffs costs under the lower scale on the ground that the case came within Con. Stat. ch. 15, sect. 34, sub-sec. 1.

On appeal CAMERON, J., reversed the taxing officer's ruling.

Nelson, for the plaintiff (appellant).

McMichael, *Hoskin* and *Ogden*, contra.

Mr. Winchester.] [May 3.

BEATTY v. CROMWELL.

Action on foreign judgment—Jurisdiction of foreign court.

An action on a foreign judgment obtained in the State of Massachusetts, U. S. A.

3rd defence.—That the defendant was not, at the commencement of the action or at any time previous to the judgment, resident or domiciled within the jurisdiction of the said Court, or within the jurisdiction of the U. S. A., or a subject of the U. S. A., that the defendant was not served with a process in the action, nor did he appear, nor had he before the recovery of the judgment any notice or knowledge of any process, nor had he any opportunity of defending himself.

The 4th defence was a defence to the original cause of action.

The defendant, in his examination, admitted that he had heard of some claim being made by the plaintiff on which judgment was obtained, (through his brother, who lived in the United States, writing to him about it), and that he wrote to his brother if there was any necessity to employ some one who knew more about it than he did, and that he thought his brother wrote to him informing him that he had got some one to attend to it, and that he sent a statement of the matter to his brother as set forth in the defence put in by Stetson and Green, lawyers. He stated that he was never served with any notice of the action having been brought in any way whatever, and never heard of the trial being about to take place, and never dreamt or heard of it till after judgment had been entered against him; that he has been living in Canada for the last six years, and out of nineteen years previous to that he only spent a year and a half in the United States. He also admitted that a portion of his estate in Mass. had been attached to pay the judgment.

A. Cassels, for the plaintiff, moved to strike out the 3rd and 4th defences on the ground that the 3rd defence is, in its material parts, bad, and that both are embarrassing.

Shepley shewed cause.

Motion refused following *Schibsby* v. *Westenholz*, L. R. 6 Q. B. 155, and *Fowler* v. *Vail*, 27 C. P. 417, and 4 App. 267.

Mr. Dalton, Q.C.] [May 15

MCCREADY v. HENNESSY.

Security for costs—Costs of application for.

An action for goods sold and delivered. Security for costs was ordered on the ground that the plaintiff's residence was out of jurisdiction; although the writ of summons did not state the plaintiff's residence, it was admitted, on the return of the motion, that he lived in Montreal.

The costs of the defendant's application for security were ordered to be costs to the defendant in the cause, the Master holding that it is necessary to endorse the plaintiff's residence on the writ when he is out of the jurisdiction. If the plaintiff's residence had been so endorsed an order would have issued on præcipe, of which the plaintiff would have had no costs, so neither can he have any costs of this motion, as might be the case if costs of this application were made costs in the cause generally.

Clement, for defendant.

Aylesworth, for plaintiff.

Mr. Dalton, Q.C.] [May 17.

KEMPT v. MACAULAY.

Mortgage—Assignment—Costs—Contribution.

An action for foreclosure of a mortgage. After judgment the defendant V., the owner of the equity of redemption, paid principal, interest, and costs, and took an assignment of the judgment and mortgage.

A writ of *fi. fa.* was issued, endorsed to levy one-half the costs from V.'s co-defendant M., the mortgagor,