

HON. SIR G. FALCONBRIDGE, C.J.K.B. JUNE 28TH, 1913.

GELLER v. BENNER.

4 O. W. N. 1565.

*Costs—Mortgage Redemption Action—Further Directions—Payment into Court.*

FALCONBRIDGE, C.J.K.B., on a motion for further directions and costs fixed the costs of the mortgagees in a mortgage redemption action at \$75.

Motion by plaintiff for judgment on further directions and costs in an action for redemption of a mortgage.

E. V. O'Sullivan, for plaintiff.

G. Grant, for defendant.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—The order under which the sum of \$750 was paid into Court does not provide, and it was not the intention of the learned Judge, that that sum should furnish any criterion or standard by which the question of costs should be adjudged.

Defendants were rightly in possession, the mortgagors being in default, and they are entitled to their costs of action and reference, which under all the circumstances I fix at the sum of \$75.

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MASTER-IN-CHAMBERS.

JUNE 23RD, 1913.

KENNEDY v. KENNEDY.

4 O. W. N. 1560.

*Discovery—Further Affidavit on Production—Variation of Statutory Form—Con. Rules 469, 1224—Information Obtainable on Examination for Discovery.*

MASTER-IN-CHAMBERS held, that slight variations from the statutory form were permissible in the case of an affidavit on production, and that a further affidavit should not be ordered where the information sought would probably be obtained on the examination for discovery.

*McMahon v. Railway Passengers*, 26 O. L. R. 430, referred to.

Motion by plaintiff for better affidavits on production by defendants, the two former affidavits having been held insufficient.

E. D. Armour, K.C., for motion.

O. H. King, for defendant Janette Kennedy.

J. C. M. MacBeth, for defendant R. Kennedy.