

into a certain public school in the town of Windsor, known as the Public Central School.

Mandamus refused, *firstly*, on the ground that the evidence showed that there was not accommodation at the school for the child; and this is a valid answer to such an application, especially where it appears as it did here that there was sufficient accommodation for the child at the other public school in the said town; *secondly*, on the ground that the application of the plaintiff was not made in the regular and proper way, under the Public School Regulations, inasmuch as it appeared that although the child in question was a registered pupil at the said other public school during the last term, she had not attended there at the commencement of the present term, as required by Public School Regulations, chap. 12, sec. 6, nor had the plaintiff applied to the inspector to have the child admitted to the Public Central School, as he should have done under chap. 12, sec. 7 of the said regulations.

N. W. Hoyles, for the applicant.

Foster, contra.

Ferguson, J.]

[Oct. 22.]

WYLD V. MCMASTER.

Motion to continue interim injunction long enough to enable applicant to have the decision of the Court of Appeal on the point involved, the same being well decided in courts of first instance.

Motion by the plaintiff to continue an injunction, so as to preserve the subject matter of the action *in statu quo*, not only until the trial, but until the case could be heard before the Court of Appeal, on the ground that the cases in courts of first instance were unquestionably against the applicant, and therefore unless time was given him to carry the matter to the Court of Appeal, he would be without substantial relief. The applicant relied on some expressions in the judgments in certain cases of what the opinions of the judges might have been but for the decisions in the books, to show that there was a probability that the existing authorities on the points in question would be over-ruled if the matter went to appeal.

Held, that the motion must be dismissed with costs. The defendant was entitled to the benefit of the laws as they existed at the time of

action brought, and that which according to the law was his could not properly be kept from him for, perhaps, a long period, to the end that the plaintiff might have it determined whether or not such existing law was good and sound. This is an entirely different case to that of keeping property *in statu quo* pending an appeal in the same cause.

J. H. Macdonald, for the motion.

N. W. Hoyles and W. Barwick, contra.

Ferguson, J.]

[Oct. 22.]

BOLTON V. ROWLAND.

This matter came up on further directions after the report of the Local Master at London. The action was brought by a mortgagor for an account of moneys in the hands of the mortgagee, after a sale under the power of sale in the mortgage, and the Master had found by his report a sum of \$136.38 in the hands of the defendant in favour of the plaintiff. The plaintiff now asked for the costs of the action.

Held, that the plaintiff was entitled to the costs of the action, although the defendant was a mortgagee, for this was not an action for foreclosure or redemption, but was a case of a defendant who had received money to the use of the plaintiff being sued for that money.

R. Meredith, for the plaintiff.

A. J. Cattnach, for the defendant.

PRACTICE CASES.

Proudfoot, J.]

[June 27.]

SYNOD V. DEBLAQUIERE.

Petition to open publication—Single judge—Material evidence.

A petition by the plaintiffs for leave to produce newly discovered evidence, and to re-open the case for its admission, after the judgment of the Court of Chancery in favour of the defendants had been affirmed by the Court of Appeal and the Supreme Court of Canada—was brought on for hearing before PROUDFOOT, J., in Court.

Held, that as the application might, before the O. J. A., have been made to a single judge, and as there is no provision in that Act specially ap-