

Dec. 1, 1882.]

[Chan. Div.]

NOTES OF CANADIAN CASES.

Chan. Div.]

verdict in favour of respondent should not be disturbed.

Robinson, Q.C., and McCarthy, Q.C., for appellant.

Martin, for respondent.

Appeal dismissed with costs.

[Nov. 28.]

BOURGET V. BLANCHARD.

Motion to rescind an order of a Judge of the Court of Queen's Bench, Province of Quebec, in Chambers—Security—Jurisdiction.

This was a motion for leave to appeal from a judgment of the Court of Queen's Bench (appeal side), rendered on the 5th October last, and praying that an order of Mr. Justice Tessier, a judge of said Court, made in Chambers on the 23rd October last, refusing to grant leave to appeal from said judgment, be rescinded, and that the said Judge, or any other Judge of the said Court of Queen's Bench, be ordered to receive security offered by appellant.

Held, that this Court had no jurisdiction to entertain such a motion.

Motion refused with costs.

Turcot for appellant.

Livernois for respondent.

CHANCERY DIVISION.

The Chancellor.]

[Nov. 15.]

GUEST V. GUEST.

Alimony—Foreign marriage and divorce—Adultery—International law.

The marriage of the plaintiff and defendant took place in the State of New York in 1876, after which they came to reside in Ontario. Thereafter, the husband deserted his wife, and went to the state of Ohio, where he has since been domiciled. He there obtained a decree of divorce, on the ground of adultery of his wife committed in Ontario, after notice of the proceedings had been personally served on the wife and witnesses had been heard on his behalf. The wife now claimed alimony, on the ground of his desertion.

Held, that credit should be given to the foreign decree of divorce, which should therefore be

acted upon in this Province; for the domicile of the husband was the domicile of the wife, so as to give the Ohio Court jurisdiction. There was no evidence that the divorce proceedings were collusive, or conducted contrary to national justice, and the cause alleged was such as to entitle the party injured to a dissolution of the marital relation wherever Christianity is accepted.

The Chancellor.]

[Nov. 22.]

MCCARDLE V. MOORE.

Administration—Default of executor—Costs.

The plaintiff being a lunatic, and entitled to maintenance out of the income of a fund in the hands of executors, brought an action for the income; and for administration.

The Master reported a balance of interest in the hands of the executors, which they had not admitted; but the conduct of the executors was otherwise proper.

Held, if the question of the liability of executors for the interest had been the only one in the action, the executors should have been ordered to pay the costs; but inasmuch as a general administration was sought and granted, no costs should be awarded for or against the executors.

The original plaintiff having died pending the action, and an order having been granted to continue the proceedings in the name of an administrator *ad litem*,

Held, that the plaintiff's costs, between solicitor and client, should be paid out of the interest recovered.

Held also, that the administrator *ad litem* was not entitled to be paid the residue of the fund; but as to this, liberty to appeal was granted.

J. A. Donovan, solicitor for plaintiff.

Bethune, Moss, Falconbridge & Hoyles, solicitors for defendants.

The Chancellor.]

[Nov. 22.]

FOLEY V. CANADA PERMANENT LOAN & SAVINGS CO.

Infant—Mortgage—Acquiescence—Confirmation of voidable instrument—Laches—Ratification.

The plaintiff, being an infant, on the 20th February, 1878, executed a mortgage in favour of the defendants. The proceeds were chiefly