

GREEN v. GEORGE.

1907

*Nov. 13.

Appeal—Jurisdiction—Dismissing appeal.

APPEAL from a decision of the Court of Appeal for Ontario (1), affirming the judgment of a Divisional Court (2), which had sustained an order made by Britton J., to set aside a judgment entered by default for non-appearance and allow the defendant to come in and defend the action. In delivering the judgment appealed from, Osler J., at page 580, states that an issue was directed by the Master in Chambers on an application made by the defendant (Green) on 17th March, 1906, to set aside a judgment entered against him on 6th October, 1890, and that the question to be determined on the appeal was whether or not the defendant, the plaintiff in the issue, was entitled to have the judgment set aside and vacated.

On motion, on behalf of the respondent, to quash the appeal to the Supreme Court of Canada, after hearing counsel the appeal was dismissed with costs.

*Appeal dismissed with costs.**Charles Millar* for the appellant.*C. A. Moss* for the respondent.

*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Maclellan and Duff JJ.

(1) 14 Ont. L.R. 578.

(2) 13 Ont. L.R. 189.