

representations therein contained; and that the defendants were also liable to the plaintiff for the damages resulting from his having acted on the publication of the statement in the *Financial News*, confirming as it did the statements in the prospectus previously received by him.

SOLICITOR—PARTNERSHIP—AUTHORITY OF ACTING PARTNER—DEFENCE OF ACTION AGAINST FIRM—SOLICITOR, EMPLOYMENT OF, BY MEMBER OF FIRM—NEGLIGENCE—ORD. XLVIII. A, R. 5.—(ONT. RULE 289).

*Tomlinson v. Broadsmith*, (1896) 1 Q. B. 386, was an action against a firm of solicitors for having entered an appearance for the plaintiffs without authority, and alternatively that if they had authority, for acting negligently. The plaintiff was a member of a firm which had been sued, and the acting partner of the firm had employed the present defendants to defend the action on behalf of the firm. The solicitors had accordingly entered an appearance for each partner individually, as required by Ord. xlviii. A, r. 5, (Ont. Rule 289), and the alleged negligence consisted in their not having subsequently notified the present plaintiff of the recovery of judgment against him, whereby he was prevented from satisfying the judgment, and his goods were seized and his credit injured. The jury found in answer to questions put to them by the judge at the trial, that the defendants had no authority, express or implied, to enter an appearance for the plaintiff, and even if they had they were guilty of negligence in the performance of their duty as solicitors. On an appeal from the judgment in favor of the plaintiff at the trial, the Court of Appeal (Lord Esher, M.R., and Lopes and Rigby, L.JJ.) dismissed the action with costs, holding (1) that the acting partner in the absence of any express withdrawal of authority, by the plaintiff, had an implied authority to employ a solicitor to defend the action against the firm, and that the solicitor so employed was sufficiently authorized to enter an appearance for each of the partners individually; and (2) that the solicitors having informed the partner by whom they were retained of the fact of the recovery of the judgment against the firm, had sufficiently discharged their duty, and were not guilty of negligence in not having also informed the other members of the firm individually thereof.