

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

Mr. Hodgins, Q.C.]

[December 14, 1883.
October 30, 1884.

CLARK V. UNION FIRE INSURANCE CO.

Solicitor and client—Taxation—Practice—Retainer—Jurisdiction of Master—Shareholder.

In proceeding on a judgment for winding up a company, the former solicitor brought in a claim for bills of costs alleged to be due him which the Master referred to one of the taxing officers to tax.

Held, that the Master had authority to direct such reference.

The taxing officer has a discretion as to allowing the attendance of parties claiming a right to attend on such taxation and such discretion will not be lightly interfered with.

On such a reference the taxing officer gives his opinion as to whether the fees and charges claimed should be allowed or disallowed and on that opinion the Master makes his adjudication.

The taxing officer's allocatur is sufficient proof that the business charged for was done by the solicitor. The rule requiring special circumstances to warrant the re-opening or taxation of a bill of costs does not apply where the bill has been delivered after a company has been ordered to be wound up.

The general manager of a company had authority to do acts which occasionally required legal advice :

Held, that he had implied authority to retain a solicitor whenever in his judgment it was prudent to do so, but that such authority ceased on the suspension of the company's license.

Where the directors of a company have power to appoint officers and agents and dismiss them at pleasure.

Held, that their appointment of a solicitor need not be under the corporate seal. Where a solicitor had instructions to defend a suit which was discontinued and a new one for the same cause of action was commenced :

Held, that the original retainer to defend continued in the new suit.

A solicitor for a company is entitled to charge such company for special work and journeys undertaken at the request of individual directors and general managers.

In proceeding under a judgment for the winding up of a company the Master has the same

jurisdiction to try claims for unliquidated damages arising out of breach of contract as he would have in an administration proceeding.

Where a conditional agreement to take shares in a company is broken the shareholder is freed from liability on such shares. But where a collateral agreement to take such shares is broken by the company the shareholder is liable on such shares but has a right of action for indemnity or damages against such company.

Boyd, C.] •

[Nov. 3.]

IN RE WALKER, A SOLICITOR.

WALKER V. ROCHESTER.

Taxing solicitors' bill—Effect of payment—Special circumstances.

Upon an appeal from the order of the Master in Chambers directing the taxation of the bills of costs which were sued on in the action *Walker v. Rochester*.

Held, that after payment the Court will not disturb the bill on the ground of overcharge unless it appears to be a case of gross and exorbitant claim amounting to fraud. But before payment it is enough if the items are unusual or more than ordinarily large so as to require justification and if no such explanation is furnished then a reference will be ordered.

The following circumstances were held not to be special circumstances which would entitle the client to tax the solicitor's bills after a year from the delivery because these circumstances could be as well considered at the trial of the action as on a reference to a taxing officer. (1) That the bills sued on contained certain items included in the other bills paid by the client. (2) That some work was charged for which never was done. (3) That a payment of \$200 on account by the client was disputed.

Held, however, that the conjunction of the following circumstances, viz.; that the relationship of solicitor and client was continued after delivery of the bills; that there was an offer by the solicitor to make a substantial deduction from the bills sued on, and, that there were items of apparent overcharge as to which no explanation was offered by the solicitor, supported the order for taxation.

Holman, for the appeal.

Clement, contra.