

Practice.

BOYD, C.]

FLETT v. WAY.

[Sept. 30.

Costs—Scale of—Title to and—Set-off of costs—Solicitor's lien—Discretion of taxing officer—Rules 3, 1204, 1205.

Where, in an action by a monthly tenant against his landlord and other persons for wrongful entry upon the demised premises, the landlord denied the plaintiff's tenancy,

Held, that the title to land was brought in question and the costs of the plaintiff were properly taxed on the High Court scale, although the damages recovered were only \$104.

Worman v. Brady, 12 P. R. 613, and *Danaher v. Little*, 13 P. R. 361, followed.

Tomkins v. Jones, 22 Q.B.D. 599, specially referred to.

By the judgment in the action, costs were awarded to the plaintiff against the chief defendant and to the other defendants against the plaintiff without any direction as to setting off costs, and the plaintiff's solicitor asserted a lien upon the costs awarded to his client against the chief defendant. The defendants all defended by the same solicitor.

Held, that under Rule 1204 the question of setting off costs was in the judicial discretion of the taxing officer, and that discretion was rightly exercised by the officer in refusing to set-off the costs ordered to be paid to the plaintiff by the chief defendant against the costs ordered to be paid by the plaintiff to the other defendants.

Construction of Rules 1204 and 1205.

The older decisions as to set-off are not applicable since Rule 3.

F. E. Titus for the plaintiff.

J. M. Clark for the defendants.

Flotsam and Jetsam.

COUNSEL: "What is the plaintiff's attitude as to this question?"

Witness: "Recumbent, lies about it constantly."—*Ex.*

THE jury brought in a verdict of "Not Guilty." The judge said admonishingly to the prisoner: "After this you ought to keep away from bad company." "Yes, your honor; you will not see me here again in a hurry."—*Ex.*

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