

[Prac.]

NOTES OF CANADIAN CASES.

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(9) Where the judge at the trial directed the plaintiff to put in writing, before judgment should be delivered, reasons why the judgment should be in his favour, charges for drawing, engrossing, and settling reasons should have been allowed.

(10) A telegram to defendant's solicitors advising them of the result of the judgment when delivered, sent by direction of the judge, should have been allowed.

(11) Instructions for affidavit of disbursements were properly disallowed, as it was not a special affidavit.

(12) Witness fees for fourteen days attendance at the trial should have been allowed, as, where there is no peremptory list, it is necessary to keep the witnesses in attendance from the first day of the assizes till the case is reached.

Holman, for the appeal.

Alan Cassels, contra.

Boyd, C.]

[November 30.]

McCALLUM v. McCALLUM.

Taxation—Local registrar—Certificate—Notice of appeal—Counsel fees—Instructions.

Where no formal certificate of the result of a taxation between party and party of the costs of the action by a local registrar was filed, but where the bill of costs, with a memo. at the end showing the result of the taxation, signed by the registrar, was filed in the local office and forwarded to Toronto for the purposes of an appeal, and where it was admitted that execution had been issued upon such memo.

Held, that the absence from the files of a more formal certificate should not bar the appeal.

Two clear days' notice of such appeal is sufficient.

A counsel fee of \$5 for each necessary and proper enlargement of a Court motion should be taxed.

Where charges for a brief are allowed, instructions for brief should also be allowed.

Holman, for the appeal.

Douglas Armour, contra.

Osler, J. A.]

[Dec. 5.]

KELLY v. THE IMPERIAL LOAN CO.

Security for costs of appeal—Distribution of fund ratably amongst parties entitled.

This was an application made on behalf of the Imperial Loan and Investment Company for payment out of certain moneys in Court under the following circumstances:

The plaintiff, on appealing from the judgment of the Court of Appeal for Ontario (11 Ap. R. 526) to the Supreme Court of Canada, deposited the usual sum of \$500 by way of security. The above company and William Damer were the defendants.

The plaintiff's appeal was dismissed with costs on Nov. 16th, 1885.

The above company's costs in the Supreme Court were taxed at \$257.70, and Damer's costs were taxed at \$300.85.

Brown, for the company, contended that where there are two separate respondents the security in Court must be regarded as applicable in equal portions, half for one respondent and half for the other.

A. C. Galt, for the respondent Damer, argued that the amount in Court should be apportioned amongst respondents in proportion to the costs taxed, and referred to the following authorities by way of analogy, in administration proceedings: *Thompson v. Cooper*, 2 Collyer 87; *Holmsted's Orders*, Vol. I. p. 284; *Snell's Equity*, pp. 40 and 41.

On Dec. 14th his lordship gave judgment, holding that the fund should be apportioned according to the amounts taxed, so that the deficiency might be borne ratably by both respondents.