

defendant, a provincial land surveyor, who was employed by the plaintiffs to run certain lines for road allowances, proceeded upon a wrong principle in making the survey, and the plaintiffs sued him for damages which they had paid to persons encroached upon by opening the road according to his survey.

*Held*, reversing the judgment of the Common Pleas, 31 C.P., 77, that the plaintiffs could not recover, as although the survey was made by the defendant on an erroneous principle, the evidence failed to prove that the lines as run by him were not correct.

*Quære*, per Patterson, J. A., whether the fact that the plaintiffs knew that the correctness of the survey was questioned before opening the road did not make them guilty of contributory negligence.

Remarks upon the impropriety of receiving the opinions of surveyors as experts as to the proper mode of making a survey under a statute. The Corporation of the Township of Stafford *v.* Bell, 6 A.R., 273.

SURVEYOR'S WITNESS FEES, TAXATION OF—COSTS—PROCURING EVIDENCE—TAXATION—LOCAL MASTER—FEES.

Expense incurred for surveys and other special work of that nature made in order to qualify witnesses (surveyors) to give evidence are not taxable between party and party, the English Chancery Order 120 (1845) not being in force here. McGannon *v.* Clarke.

The taxing officer refused to allow charges for maps prepared to identify the details of the line mentioned in the judgment as that which the judge considered the true line, and also for a certificate of the state of the cause, for a letter advising of judgment, and for instructions on motion for judgment.

*Held*, that there being no error in principle, but only an exercise of discretion by the taxing officer, the Court would not interfere with his ruling.

*Held*, also, that the Local Masters, who are paid by fees instead of salary, are entitled to charge one dollar per hour in money under Chancery Tariff of 23rd March, 1875, when taxing costs. (June 18th, 1883.—Boyd, C.) McGannon *v.* Clarke, 9 P.R., 555.

UNSKILFUL SURVEY—COMPENSATION FOR IMPROVEMENTS UNDER R.S.O., CH. 51, SS. 29, 30.

Where S., having purchased a lot of land, employed a public land surveyor to mark out the boundaries of it for him and the surveyor, by reason of an unskilful survey, Plumb *v.* Steinhoff.