

HIGH COURT OF JUSTICE FOR ONTARIO.

Queen's Bench Division.

Divisional Court.]

[Sept. 7.]

TRICE v. ROBINSON.

Personal representative—Letters of administration issued after action brought—R. S. O. (1887), c. 194, s. 122.

In an action (which had to be brought within three months) under R. S. O. c. 194, s. 122, by the administratrix of the deceased, it appeared that the accident from which the cause of action arose happened on June 1st, the writ of summons was issued August 31st, but the letters of administration to the plaintiff were not issued until September 3rd.

Held, that by the old rule in Chancery proceedings it was suffice it for the administrator to obtain letters of administration before the case was heard, as they, when obtained, related back to the death, and that now by R. S. O. (1887), c. 44, s. 53, s. 5, the equitable doctrine as opposed to that at law must prevail, and that the plaintiff's letters of administration were issued in time.

T. H. A. Begue, for the appeal.

Moss, Q.C., contra.

[Oct. 24.]

In re SOLICITOR.

Solicitor and client—Costs, taxation of—Disallowance of costs of unnecessary proceedings—Interest—Appeal—Time.

The mere non-communication by a solicitor to his client of an offer of settlement does not prove that proceedings after the offer were unnecessary, and that the costs of them should be disallowed, under Con. Rule 1215, unless it is shown that the offer was an advantageous one, the acceptance of which the solicitor ought to have advised, and it can be fairly inferred that he refrained from communicating it and advising its acceptance merely for the purpose of putting costs into his own pocket and without regard to the interests of his client.

A taxing officer has no authority to charge

a solicitor with interest upon moneys in his hands belonging to his client.

The time for appealing from a taxation of costs begins to run from the date of certificate of taxation, not from the date of each ruling in the cause of taxation.

Aylesworth, for the solicitor.

W. H. P. Clement, for the client.

Armour, C.J.]

[Nov. 1.]

PRICE v. GUINANE.

Landlord and tenant—Overholding Tenants' Act—Powers of County Judge—"Colour of right"—Writ of possession—Stay of proceedings.

The expression "colour of right" in the Overholding Tenants' Act, R. S. O. c. 144, means such semblance or appearance of right as shows that the right is really in dispute.

The Act confers no authority upon the County Judge to try the question of the tenant's right or title; as soon as it is made to appear that the right is really in dispute, there is then that colour of right which the Act contemplates, and the judge is bound to dismiss the case.

Gilbert v. Doyle, 24 C. P. 60, and *Woodbury v. Marshall*, 19 U. C. R. 597, not followed.

Upon the proceedings before the County Judge being commanded to be sent up, the High Court has power to stay proceedings upon the writ of possession under the Act.

Chancery Division.

Boyd, C.]

[Oct. 16.]

Re HARVEY v. PARKDALE.

Damages, measure of—Strip of land reserved by owner in laying out street—Expropriation by municipality arbitration—Notes of evidence—Appointment of arbitrator.

Two owners of adjoining blocks of land laid out streets through the centre thereof, to within one foot of the boundary line between their respective blocks, each reserving one foot to himself, thus forming an obstruction to the street of two feet of land, and laid out and