

balance of the cargo salvage was paid, and this action was brought to recover the full amount.

Held, affirming the decision of the local judge in Admiralty for Nova Scotia, that the authority by the power of attorney to "settle and adjust" the claim did not authorize P. to receive the money, and his release did not prevent plaintiffs from maintaining the action.

TASCHEREAU, J., doubted the jurisdiction of the court to hear the appeal.

Appeal dismissed with costs.

W. B. Ritchie for the appellants.

McCoy, Q.C., and Morrison for the respondents.

SUPREME COURT OF JUDICATURE FOR ONTARIO.

COURT OF APPEAL.

[May 10.]

HAYES v. ELMSLEY.

Vendor and purchaser—Specific performance—Interest—Rescission.

This was an appeal by the plaintiff and a cross appeal by the defendant from the judgment of the Chancery Division, reported 21 O.R. 562, and came on to be heard before this court [HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, J.J.A.] on the 23rd of March, 1892.

The appeal was dismissed with costs, the court agreeing with the reasons for judgment in the court below.

The cross appeal which was brought against that part of the judgment refusing to allow interest from the 19th February, 1890, to the 10th of March, 1891, during which time the judgment for rescission was in force, was also dismissed with costs, the court being equally divided as to it.

J. A. Donovan for the plaintiff.

W. Cassels, Q.C., and D. T. Symons for the defendant.

WRIGHT v. COLLIER.

Evidence—Experts—New trial—Practice—Con. Rule 207.

An action for damages caused by collision between two vessels was tried by ROSE, J., without a jury, and after the evidence had been taken the learned judge, with the consent of both parties, consulted two master mariners, and adopted as his own their opinion, based on

a consideration of conflicting testimony as to the responsibility for the collision.

Held, that this was a delegation of the judicial functions, and a new trial was ordered. The scope of Con. Rule 207 as to calling in the assistance of experts considered.

C. J. Holman for the appellants.

Alcorn, Q.C., for the respondent.

HALL v. HALL ET AL.

Donatio mortis causa—Delivery of keys of box and of rooms.

This was an appeal by the plaintiff from the judgment of the Chancery Division, reported 20 O.R. 684, reversing the judgment of ROSE, J., at the trial in her favour, reported 20 O.R. 168.

The action was brought to establish an alleged *donatio mortis causa* of the contents of a cash box and of two rooms. The deceased, shortly before his death, handed to the plaintiff, with words of gift, his watch and pocketbook, and also the keys of his cash box, which was at the time in the custody of his solicitor and contained various title deeds and securities, and the keys of two rooms, not in the house where the deceased at the time was.

The appeal came on to be heard before this court [HAGARTY, C.J.O., BURTON, OSLER, and MACLENNAN, J.J.A.] on the 18th and 21st of March, 1892.

The court, with great regret, dismissed the appeal for substantially the reasons given in the judgments below, the costs of all parties to be paid out of the estate.

The following cases, in addition to those cited below, were referred to. *Mustapha v. Williams*, 8 Times L.R. 160; *Wildish v. Fowler*, 8 Times L.R. 457.

S. H. Blake, Q.C., for the appellant.

Bicknell and Gauld for the respondents.

MINGEAUD v. PACKER ET AL.

Insurance—Life insurance—Benefit society—Appointment—Revocation—Trust—R.S.O., c. 136—R.S.O., c. 172—51 Vict. c. 22 (O.).

This was an appeal by the plaintiff from the judgment of the Queen's Bench Division, reported 21 O.R. 267.

The plaintiff was the second wife of a person whose life was insured in a benefit society, incorporated under R.S.O. (1877), c. 167, as