

GENERAL CORRESPONDENCE—APPOINTMENTS TO OFFICE—TO CORRESPONDENTS.

it became necessary to make Dunn a party defendant, and always had possession of it from the time it was returned from the registry office.

Moss now moved for an order for substitutional service upon the solicitor citing *Hope v. Hope*, 4 DeG. M. & G. 342; *Cooper v. Wood*, 5 Beav. 391; *Hald v. Hay*, 9 W. R. 869; *Hornby v. Holmes*, 4 Hare 301; *Crookshank v. Sage*, Chamber Reports, 202.

MOWAT, V. C.—After consideration granted the order, giving the defendant six months from the date of service on the solicitor within which to answer the bill.

ENGLISH REPORTS.

LECOQC AND WIFE v. THE SOUTH-EASTERN RAILWAY COMPANY

Foreign Commission—Costs of employing counsel—Practice. In order to entitle the successful party in an action to the cost of employing counsel on a foreign commission it must be shown that special circumstances necessitate such employment.

The action was under Lord Campbell's Act for injury sustained by the death of the plaintiff's son, who was killed at the Staplehurst accident, on the defendant's line. A commission was sent to France to examine witnesses, and counsel were employed on that commission by both plaintiffs and defendants. The plaintiffs recovered £400. On the taxation of costs the Master disallowed the plaintiff's costs of the counsel who attended the commission.

Murphy moved for a rule calling on the defendants to show cause why the master should not be at liberty to review his taxation, by allowing these costs against the defendants. There was no case either way, but the plaintiffs, finding that the defendants would employ counsel, and in view of questions of law which might arise, had employed counsel, and having obtained the verdict were entitled to these costs.

BLACKBURN, J.—I am of opinion that there should be no rule in this case. I am far from saying that in no case of a commission to a foreign part will costs be allowed, but the course is so unusual that it must only be where some special circumstances of the case show that it was necessary. This is not shown here, and it is not sufficient to contend that as the defendants employed counsel the plaintiffs were obliged to do so without showing something special in the case.

MELLOR and SHEP, JJ., concurred.

Rule refused.

GENERAL CORRESPONDENCE.

By-law—Imposing toll on non-residents only.

TO THE EDITORS OF THE LAW JOURNAL.

GENTLEMEN,—Can a township municipality legally pass a by-law imposing toll on non-residents using a road constructed in and at the expense of said township for the purpose of assisting in the repairing of said road, and

exempting the residents of the township in which the road is situated, it having been originally built at the expense of said township. As this is a matter of public interest, and about which different views seem to prevail, I trust you will kindly favor with a reply in the next number of your very valuable Journal, and much oblige, gentlemen, your most obedient servant and subscriber,

THOMAS MATHESON.

Mitchell, June 2, 1866.

[We do not think the by-law, as stated by our correspondent, valid.—Eds. L. J.]

MONTHLY REPERTORY.

COMMON LAW.

EX. May 3.

TANNER v. THE EUROPEAN BANK.

BOWEN v. THE SAME.

Practice—Interpleader order—Special count—Common Law Procedure Act, 1860, s. 12.

The fact of a special count for breach of duty, in reference to the matter claimed in an action of trover, being added to counts in trover and detinue, does not prevent a judge from making an interpleader order relating to all the counts in such action, provided such order is just and reasonable.

Best v. Hayes, 11 W. R. 71, 1 H. & C. 718, approved of. (W. R. 675)

CHANCERY.

M. R. IN RE HELLMAN'S WILL. May 1.

Foreign domicile—Legatees—Payment of legacy.

A legatee domiciled abroad may, if of age, according to the law of his place of domicile, receive payment of his legacy, although a minor according to the laws of this country, and a legatee domiciled abroad may be paid his legacy on attaining his majority according to the laws of this country, even if he is a minor according to the law of his place of domicile. (W. R. 674.)

APPOINTMENTS TO OFFICE.

NOTARY PUBLIC.

JAMES WATT, of Oil Springs, Esquire, Attorney-at-Law, to be a Notary Public in Upper Canada. (Gazetted May 19, 1866)

CORONERS.

JOSEPH A. FIFE, Esquire, M.D., to be an Associate Coroner for the County of Peterborough. (Gazetted May 5, 1866.)

GEORGE BRANT, of the village of Smithville, Esquire, to be an Associate Coroner for the County of Lincoln. (Gazetted May 5, 1866.)

TO CORRESPONDENTS.

“THOMAS MATHESON”—Under “General Correspondence.”