

Practice.

OSLER, J.A.]

[Feb. 13.]

IN RE BURNHAM.

Costs—Scale of—Court of Appeal—Water privilege—Appeal from order of County Court Judge—R.S.O., c. 119, s. 18.

The disposition of the costs of an appeal is not a part of the practice and proceedings upon the appeal.

Upon an appeal from an order of a County Court Judge, under R.S.O., c. 119, with respect to a water privilege, the Court of Appeal has power, under s. 18, to direct that the costs shall be taxed on the scale applicable to High Court, County Court, or Divisional Court appeals; and the judge to whom application for leave to appeal is made under s. 16 has no power to control the discretion of the court in this respect.

W. H. Blake for the appellant.

W. E. Middleton for the respondent.

C.P. Div'l Court.]

[March 2.]

STANDARD DRAIN PIPE CO. v. TOWN OF FORT WILLIAM.

Venue—Change of—Convenience—Onus—Witnesses.

The plaintiff has the right to select the place of trial of the action, and the onus is upon the defendant to show that the preponderance of convenience is against the place so selected.

Per MEREDITH, C.J.: It would be more satisfactory if the practice were that *prima facie* the action should be tried in the county where the cause of action arose, leaving the onus upon the plaintiff to show a preponderance in favour of the place selected by him; but the contrary practice is well settled.

Per ROSE, J.: The court will not, upon an application to change the venue, enter into an enquiry as to the personal inconvenience of witnesses.

A. K. Lewis, Q.C., for the plaintiffs.

H. M. Mowat for the defendants.

Q.B. Div.]

[March 3.]

IN RE SOLICITOR.

Costs—Taxation—Solicitor and client—Counsel fee at trial—Advising on evidence—Reference—Unnecessary length—Allowance to solicitor—Brief copies of depositions—Counsel fees on court motions.

Upon appeal from taxation between solicitor and client of a bill of costs for the defence in an action of redemption in which, before the beginning of the sittings at which the action was entered for trial, an arrangement had been made between the parties that all the matters in question should be