

*Shepley, K.C.*, for the vendors, contended that under what is now s. 18 of the Trustee Act, R.S.O. 1897, c. 129, the executors had power to sell, the testator having created such a charge as is described in s. 16, and not having devised the real estate to the executors in trust; that s. 16 of the Devolution of Estates Act, as found in R.S.O. 1897, c. 127 (which first became law in 1891), did not oblige the executors to sell under the Devolution of Estates Act, for by sub.-s. 2 that section is not to derogate from any right possessed by an executor or administrator independently of the Act; that if the testator had devised the land to the executors upon trust, the machinery of the Devolution of Estates Act was not to be applied; *Re Booth's Estate*, 16 O.R. 429; and no more should it where the executors have a statutory power of sale to satisfy a charge.

*E. B. Brown*, for purchaser.

THE CHANCELLOR agreed with the argument of the vendors, and made order declaring that the vendors could make a good title under the sale and conveyance of the executors.

Boyd, C.]

IN RE SOLICITOR.

[Nov. 6.]

*Solicitor—Taxation of bill of costs—Collection of moneys—Commission.*

An appeal by the client from the report of the senior taxing officer at Toronto upon the taxation of a bill of costs rendered by the solicitor to the appellant in respect of services of the solicitor in collecting \$70,000 of insurance moneys. The principal item was a commission amounting to \$3,200 upon the amount collected.

*Held*, having regard to *In re Richardson*, 3 Ch. Ch. 144, and the line of practice founded thereon as manifested in the certificate of the taxing officer appended to *In re Attorneys*, 26 C.P. 495, that the conclusion of the taxing officer should not be disturbed. The circumstances surrounding the professional employment in this case were very exceptional, and justified the somewhat liberal allowance ascertained upon the reference.

Appeal dismissed with costs.

*D. O'Connell*, for appellant. *W. E. Middleton*, for solicitors.

Falconbridge, C.J., Street and Britton, JJ.]

[Nov. 6.]

HILL v. HILL.

*Alimony—Lunatic—Admission to asylum—Removal—Summary judgment.*

*Held*, affirming the decision of MEREDITH, C.J., 2 O.L.R. 289; ante p. 751, that the plaintiff was not entitled to alimony.

*Held*, also, that upon a motion by the plaintiff for summary judgment under Rule 616, where all the facts were before the court and the conclusion was against the plaintiff, it was proper to pronounce judgment dismissing the action, instead of merely dismissing the plaintiff's motion.

*S. H. Bradford* and *B. E. Swayzie*, for plaintiff. *W. R. Riddell, K.C.*, for defendant.