

donee, and he does not discharge his duty by simply ascertaining that the donor understands, and wishes to carry out, the transaction. He must also satisfy himself that the gift is one that it is right and proper for the donor to make, under all the circumstances, and if he is not so satisfied, he should advise his client not to go on with the transaction, and ought not, if he disapproves of it, to assist in carrying it out merely because, if he did not act, some one else might be found who would; and that such gifts should not in any case be made by young persons just come of age without a power of revocation being inserted in the instrument. Because the solicitor had failed in his duty in this respect he was refused his costs.

PRACTICE—NON-SUIT—DISCONTINUANCE—RULES 290-293—(ONT. RULES 430, 431, 543, 1198 (D)).

In *Fox v. The Star* (1900) A.C. 19 the House of Lords (Lord Halsbury, L.C., and Lords Macnaghten, Morris, and Shand,) have affirmed the decision of the Court of Appeal (1898) 1 Q.B. 636 (noted ante, vol. 34, p. 404), to the effect, that a plaintiff cannot now elect to be non-suited; and if he offers no evidence at the trial the defendant is entitled to a verdict and judgment dismissing the action. It is thus settled pretty conclusively that the old common law practice which enabled a plaintiff to accept a non-suit at his election, and bring another action for the same cause is no longer in force.

BY-LAW—WORK EXECUTED IN CONTRAVENTION OF—CONTINUING OFFENCE—BUILDER, LIABILITY OF.

In *Welsh v. West Ham* (1900) 1 Q.B. 324, a builder, who had erected for another person a building in contravention of a municipal by-law, was convicted of an offence against the by-law and fined. He was subsequently prosecuted and convicted for a "continuing offence" against the by-law under a statute which provided that, where the execution of a work is an offence in respect whereof the offender is liable, under any by-law, to a penalty, the existence of the work in such form and state as to be in contravention of the by-law shall be deemed to be a continuing offence. It appeared that the builder had no power to go upon the premises, or to remedy the breach complained of. Under these circumstances the Divisional Court (Darling and Channell, JJ.), on appeal from the conviction, held that the builder was not guilty of a "continuing offence" within the meaning of the statute.