

PRACTICE—COSTS—POWER TO ORDER SUCCESSFUL PARTY TO PAY COSTS.

Andrew v. Grove (1902) 1 K.B. 625, was an appeal on the question of costs. The action was commenced in the High Court and remitted to a County Court for trial. The judge of the County Court dismissed the action, but did not believe the defendant's evidence and thought he had perpetrated a swindle and ordered him to pay the plaintiff's costs of the action. The Act (51 & 52 Vict., c. 43, s. 113) which related to the judge's discretion as to costs is as follows: "All the costs of any action or matter in the Court, not herein otherwise provided for, shall be paid by or apportioned between the parties in such manner as the Court shall think just, and in default of any special direction shall abide the event of the action or matter." Lord Alverstone, C.J., and Darling and Channell, JJ., were of opinion that the Act gave no power to order a successful defendant to pay costs, except such costs as might be caused by the defendant's misconduct in the action, and that an appeal from such a disposition of costs is an appeal on the merits. The same principle would seem to be applicable in the exercise of the discretion conferred by Ont. Rule 1130.

**PRACTICE—COSTS—APPEAL—OFFICIAL REFEREE—DISCRETION AS TO COSTS—
LEAVE TO APPEAL—JUD. ACT S. 49—(ONT. JUD. ACT S. 72)—ORDER XXXVI.
R. 555—ORDER LXV. R. 1—(ONT. RULES 648, 1130).**

In *Minister v. Apperly* (1902) 1 K.B. 643, a Divisional Court (Lord Alverstone, C.J. and Darling and Channell, JJ.) has decided that where a case is referred to an official referee for trial without any direction as to the costs they are in his discretion, and under the Jud. Act s. 49, (Ont. Jud. Act s. 72), no appeal will lie from his disposition thereof without his leave.

**CRIMINAL LAW—OFFENCE—BREACH OF ACT PROHIBITING BUILDING BEYOND A
CERTAIN LINE—CHANGE OF OWNERSHIP—CONTINUANCE OF BUILDING AFTER
NOTICE.**

Blackpool v. Johnson (1902) 1 K.B. 646, was a case stated by justices. The defendants were charged with having committed a breach of an Act of Parliament prohibiting the erection of a house beyond the main wall of the house on either side of it without the consent of the municipality; and the Act provided that "Any person offending against this enactment shall be liable to a penalty not exceeding 40s. for every day during which the offence is continued after written notice" from the municipal authorities.