or locatee is subject to taxation by the local government.

Recent legislation at Ottawa is in recognition of the right thus to sell the interest of holders of Indian lands while yet unpatented, such sales being subject to the recognition of them by the Superintendent-General of Indian Affairs, 51 Vict. c. 22.

Held, also, the reeve of the municipality was not disqualified from purchasing at a sale for taxes. He had no power or duties with reference to the taxes or to the sale of a personal or official nature, and no interference in fact was proved.

Masson, Q.C., for the plaintiff.

O'Connor, for the defendant.

Practice.

Ferguson, J.] [Nov. 17.

ARCHER *v.* SEVERN.

Costs out of estate--Interest upon from taxation.

Costs of all parties of an action for the construction of a will were ordered to be paid out of the estate of the testator, and were taxed in 1883, but there were no funds available for their payment until 1888.

Held, that interest upon these costs could not be allowed out of the estate.

H. Cassels, for the executors.

Snelling, for the other parties interested.

Ferguson, J.] [Nov. 13.

In re CHAMBLISS AND CANADA LIFE ASSOCIATION COMPANY.

Administrator ad litem—Con. Rule 311.

C. joined his wife in executing a mortgage on her land to a company, covenanting for payment, and then died intestate.

The company, being about to sell the land to realize their claim on the mortgage, desired to have C.'s estate represented for the purpose of claiming against it for any deficiency. No letters of administration having been taken out.

Held, that it was proper to appoint an administrator *ad litem* under Con. Rule 311.

Bruce, Q.C., for the company.

No one contra.

Street, J.] [Dec. 4.

In re CHATHAM HARVESTER CO. *v.* CAMPBELL.

Arrest—Judgment debtor—Order for examination—Appointment—Failure to attend—Committal—Substituted service of summons — Writ of attachment — Notice to debtor.

An order was made by a judge of the High Court, upon the return of a *habeas corpus*, for the discharge of the defendant from custody under a writ of attachment issued by order of a County Judge in an action in a County Court.

Held, 1. That an order to examine the defendant as a judgment debtor, and an appointment under it, together were equivalent to an order that the debtor should attend upon the day mentioned in the appointment, and when he obeyed the order by attending and offering to be examined, its force was spent, and the power of the examiner under it at an end; to obtain a fresh appointment a fresh order was necessary.

Jarvis v. *Jones*, 4 P. R. 341; *McGregor* v. *Small*, 5 P. R. 56, referred to.

2. If an order for substituted service of a summons or notice of motion to convict can be made at all, even under the wide language of Con. Rule 467, it should not be made, except in a case where no doubt exists that the notice will come to the knowledge of the person against whom it is directed.

3. The order asked for by the summons, viz., for the committal of the defendant to the common gaol, was the appropriate punishment authorized by R. S. O. (1877), c. 50, s. 505, for disobedience to an order to attend for examination; and an order for the issue of a writ of attachment requiring the sheriff to hold the debtor in custody for an indefinite period was improper. At any rate, a different order from that indicated in the summons should not have been made in the absence of the debtor.

4. The writ of attachment under which the debtor was held was improperly issued without notice to him, as required by Con. Rule 879, and it made no difference that it was in lieu of one which had expired.

E. D. Armour, for plaintiff.

Aylesworth, for defendant.