

[Prac.]

NOTES OF CANADIAN CASES.

[Prac.]

§85. A question having arisen as to the scale of costs,

Held, following *Watson v. Garnett*, 3 P. R. 74, and *Hyde v. Beardsley*, 18 Q. B. D. 246, that "costs to abide the event" does not mean that the plaintiff, if successful, shall necessarily have full costs, but that he shall have such costs as, under the statutes and rules of court, a plaintiff recovering the amount that he recovers by the event is entitled to.

Held, also, following *Cumberland v. Ridont*, 3 P. R. 14, that the final judgment by means of the reference was to be regarded as obtained without a trial, and the costs therefore depended upon Rule 511, under which the taxing officer was directed to proceed.

There should be no set-off of costs; such a result is not contemplated by Rule 511, and it is not a fair construction to incorporate with it the provisions of R. S. O. c. 50, s. 347, that section being restricted to a case where there is a trial.

White v. Bolfry, 10 P. R. 64, commented upon.

Shepley, for the defendants.

Aplesworth, for the plaintiff.

[Chancery Divisional Court.]

[March 5.]

MCGUIN V. FETTS.

Receiver—Right of action—Amendment.

A receiver has no right to sue in his own name for a debt due to the person or corporation whose assets he has been appointed to receive; nor can that right be conferred on him by an order made without notice to the alleged debtor, authorizing him to sue in his own name.

But where, by an *ex parte* order made in the suit in which the plaintiff was appointed receiver, he was authorized to bring actions in his own name for the collection of debts due to a certain Grange, and brought this action pursuant thereto, it was

Held, that an amendment should be made, adding the Grange as co-plaintiffs, without security being given for their costs.

Reeve, Q.C., for the plaintiff.

Mass, Q.C., for the defendant.

[Chancery Divisional Court.]

[March 5.]

KNAPP V. KNAPP.

Interim alimony—Disbursements—Separate estate—Status of married women.

The peculiar practice of awarding interim alimony and disbursements in alimony suits is founded on the presumption that the husband has everything and the wife nothing, but when the contrary appears the presumption is done away; and the court will, on applications for *interim* alimony, consider the question of the wife's ability to maintain herself out of separate estate or other sources of income, such as her earnings and allowances from her friends.

And where the wife had been living apart from her husband for five years, and had been supporting herself out of the rents of houses owned by her, and by taking boarders, and through assistance rendered by members of her family, the court refused to award *interim* alimony, but directed the husband to pay the prospective cash disbursements of the plaintiff's solicitors upon their undertaking to account it.

Per Boyd, C. The change in the status of married women under recent legislation has no effect upon the law as to alimony, unless the wife is actually in receipt of such independent and separate means of support as will enable her to live and pay the costs of litigation without alimentation pending the action for alimony.

H. J. Scott, Q.C., for the defendant.

Holman, for the plaintiff.

[Rose, J.]

[March 8.]

CHICK V. TORONTO ELECTRIC LIGHT CO.

Costs, scale of—Rule 218—Money paid into court with defence.

The plaintiff in an action in the High Court of Justice claimed \$296.14, the balance of an account of \$896, for rent and goods sold and delivered.

The defendants in their statement of defence admitted a liability of \$170.30, but claimed a credit of \$81.14, leaving a balance due of \$89.16, which they brought into court with their defence.

The plaintiff served notice under Rule 218