

him as "Mr. Carl J. Sanders, who is to succeed Mr. E. C. Duncan as manager of the Gamble-Robinson Fruit Co. Ltd., in your city. Mr. Sanders will have full charge as soon as the audit has been made and everything is turned over by Mr. Duncan." This is followed by a direction to the bank to honour the cheques of the company signed by Mr. Sanders.

In view of this, it is impossible to say that there was no evidence upon which the magistrate could find that there was a contract or agreement between the company and Sanders for his employment, previous to his becoming resident in Canada.

The motion fails, and I dismiss it with costs, to be paid to the magistrate, which I fix at \$25. I make no order as to the informant's costs.

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HON. MR. JUSTICE MIDDLETON.

DECEMBER 22ND, 1913.

JOLICOUR v. CORNWALL.

5 O. W. N. 597.

*Costs—Conflict between Rules and Statute—Supremacy of Former—Witness Fees—Surveyors—Rules of 1913—Taxation—Estoppel—Appeal.*

MIDDLETON, J., *held*, that where there was a conflict as to the quantum of witness fees between the Rules and a statute, the former governed.

That where a party submitted a bill of costs based on the new tariff and had the same taxed, he could not afterwards seek to have the taxation reopened and all the items prior to Sept. 1st, 1913, taxed upon the old scale.

Appeal from taxation of the local officer at Cornwall.

F. Aylesworth, for the plaintiff.

H. S. White, for the defendant.

HON. MR. JUSTICE MIDDLETON:—Two questions are directed: first, it is said that part of the work was done before the Rules came into force, yet the taxation has been upon the tariff appended to those Rules.

The plaintiff brought in for taxation a bill framed upon the present tariff, and the respondent did not object to taxation upon that tariff. The plaintiff now seeks to withdraw the bill which he has taxed and substitute for it a bill