(Smith, Rigby and Williams, L.JJ.) reversed his decision, holding that evidence of any contemporaneous agreement to renew a bill is inadmissible, as being, in effect, an attempt to vary a written instrument by parol.

GARNISHEE PROCEEDINGS—COSTS—APPEAL ON QUESTION OF COSTS—ORDS. XLII., RR. 32, 34; XLV., R. 9 (ONT. RULES 900, 1139.) JUD. ACT, 1873, S. 49, (ONT. JUD. ACT, S. 72.)

In *Adbrigton* v. *Conyagham* (1898) 2 Q.B., 492, an appeal was brought from an order of Channel, J., refusing the appellant the costs of the examination of the defendant as a judgment debtor, and of certain garnishee proceedings. It appeared that the learned judge had refused to order the defendant to pay the costs on the ground that it had been the practice to regard such proceeding as a "luxury" for which the plaintiff had to pay. The Court of Appeal (Lindley, M.R. and Chitty, L.J.) gave leave to appeal, but on the hearing of the appeal, came to the conclusion that the order was not appealable without the leave of the judge who made it, at the same time very plainly intimating that they considered it erroneous.

COSTS—TAXATION—CLAIM AND COUNTER-CLAIM SUCCESSFUL.

In *Atlas Metal Co.* v. *Miller* (1898) 2 Q.B. 500, the plaintiff succeeded on the claim and the defendant on his counter-claim, each party being entitled to costs, and on the taxation the question was raised as to the principle on which the costs should be taxed. The master, following what he understood to be the rule laid down in *Shrapnel* v. *Laing*, 20 Q.B.D., 334, apportioned some of the costs of the action between the plaintiffs and the defendant. This mode of taxation the defendant objected to, contending that none of the costs of the action should be thrown upon him, relying on *Saner* v. *Bilton*, 11 Ch.D., 416. Channel, J., affirmed the ruling of the taxing master. On appeal, however, the Court of Appeal (Lindley, M.R., and Chitty, L.J.,) reversed his decision, holding that a plaintiff who is to be paid, or to pay, the costs of an action, is to pay or to be paid the whole of such costs as if there were no counter-claim; and, on the other hand, where a defendant is entitled to costs of a counter-claim, the Court of Appeal considered that the dictum of Lord Esher, that he was entitled to the whole costs of the counter-claim as if no claim existed, was misleading, unless it is understood that by the costs of the counter-claim is meant the