

any way. The arbitrator or referee made his report or award finding that the amount of the judgment should be reduced to a named sum, and adding, "I do award to the plaintiff the costs of this action, including the costs of the reference and award." Judgment was entered in accordance with this award.

Rule 550 provides that "The Court will not refer to arbitration."

Held, that this Rule does not prevent any arrangement for the settlement of an action entered into and acted upon by litigants from being sanctioned and enforced by the Court; and therefore there was power to make a reference by consent in this way; but it was a reference to arbitration and not a reference under the Judicature Act, and the referee had no power to deal with the costs.

The award of costs was stricken out of the judgment, and an application afterwards made to the trial Judge to amend the indorsement on the record so as to provide for the costs was refused, although the omission to provide for the costs was not intentional.

Masten for the plaintiff.

W. H. Blake for defendant.

ARMOUR, C. J.]

[Jan. 10.

MELBOURNE v. CITY OF TORONTO.

Costs—Defendants severing—Partnership—Dis-solution before action.

In an action against a municipal corporation for injury to a drain, the corporation caused the two contractors who had constructed the drain and the assignee of one of them to be made defendants. The two contractors were partners at the time of the construction of the drain but had dissolved partnership before the action was begun. One partner appeared and defended by one solicitor and the other and his assignee by another solicitor. Judgment was given dismissing the claim of the corporation against the added defendants with costs, but they were not by the judgment limited to one set of costs.

Held, that there was no "law of the Court" which under the circumstances of this case justified the taxing officer in refusing to allow more than one set of costs to the added defendants.

Rule 1202 considered.

C. R. W. Biggar for the City of Toronto.

C. Millar for added defendants.

ROSE, J.]

[Jan. 27.

MILLIGAN v. SILLS.

Venue—Change of—Preponderance of convenience—County Court action—Appeal from Master in Chambers—Rule 1260.

Upon motion to change the venue from Toronto to Napanee in a County Court action, brought to recover \$100 damages for breach of a contract by the defendant to sell a horse to the plaintiff, it appeared that the defendant resided in the County of Lennox and Addington and the plaintiff in Toronto and all the witnesses on both sides were in Lennox and Addington except the plaintiff himself and one other in Toronto.

The defendant swore that he required eleven witnesses at the trial. It was not clear where the cause of action arose, but the breach was probably where the defendant resided.

Held, that there was a very great preponderance of convenience in favor of having the action tried at Napanee, and the venue was accordingly changed.

Held, also, that an appeal lay to a Judge in Chambers from an order of the Master in Chambers under Rule 1260.

Hilton for plaintiff.

Aylesworth for defendant.

ROBERTSON, J.]

[Jan. 28.

In re GIBSON.

Bond—Solicitors for committee of lunatic as sureties.

The rule that the solicitor for a party will not be accepted by the court as a bondsman for such party is still in force.

The rule was applied to the case of the committee of the person and estate of a lunatic giving a bond for the due performance of her duties as such committee and offering her two solicitors as sureties.

E. T. Malone for Inspector of Prisons and Public Charities.

Hoyles for Committee.

MACMAHON, J.]

[Jan. 30.

KNIGHT v. GRAND TRUNK RY. CO.

Discovery—Examination of officers of railway company.

Held, that a track foreman, a switch-foreman and two engine-drivers in the employment of