

Full Court.]

PALGRAVE v. McMILLAN.

[May 23.

*Costs—Retaxation before Judge—Appeal from—Discretion of Judge—Wrong principle—O. 63 R. 23—Act of 1885, c. 36.*

Costs taxed before the Taxing Master were retaxed before a Judge of the Court after notice in writing pursuant to the provisions of O. 63 R. 23 (Acts of 1893, Appendix).

*Held*, (1) The right of appeal was retained by the Act creating the office of Taxing Master, Acts of 1885, c. 36. (2) The Court would not interfere with the retaxation unless some very gross error had been committed, violating well settled principles of taxation of costs. (3) On retaxation, the judge, under the provisions of the rule, had the fullest discretion as to items or parts of items, and having acted within his powers, and it not being shown that the retaxation proceeded upon any wrong principle, that the appeal must be dismissed with costs.

It was brought to the notice of the court that the Taxing Master limited the costs of retaxation to his own fees, and refused the costs of the application before the Judge.

*Held*, That he erred in doing so, the party succeeding being entitled to all necessary costs incurred in obtaining the result arrived at.

*T. J. Wallace*, for appellant. *W. B. A. Ritchie*, Q.C., for respondent.

Full Court.]

RHODENHIZER v. BOLLIVER.

[May 23.

*Parent and child—Gift to daughter living at home—Evidence—Transmutation of possession.*

*Held*, affirming the judgment of the County Court Judge, and dismissing defendant's appeal with costs, that evidence that a cow was said to belong to plaintiff's daughter, while the daughter was living at home, was not sufficient to support an alleged gift in the absence of evidence of any point of time when it could be said that there was a gift, or of any transmutation of possession.

*F. B. Wade*, Q.C., for appellant. *J. A. McLean*, Q.C., contra.

Full Court.]

NORTH SYDNEY MINING AND TRANSPORTATION CO. v. GREENEE.

[May 23.

*Receiver—Application for appointment of, by way of equitable execution—Recorded judgment—Will bind interest of mortgage in land—Sale of interest under execution—R.S., 5th series, c. 84, s. 21, s. 7 (i); R.S., 5th series, c. 124.*

The plaintiff company having recovered several judgments against defendant, upon which executions had been issued, which remained unsatisfied, made application to a judge at Chambers for the appointment of a receiver to receive the rents, interest and profits to which defendant might become entitled by virtue of a mortgage upon the lands of L., the mortgage not being yet due.

*Held*, affirming the judgment of the Chambers Judge refusing the application and dismissing plaintiff's appeal with costs, that the Court should not