

where he points out that while an executor sued for a devastavit may set up the Statute of Limitations as a bar, yet in an administration action it is not competent for a personal representative to discharge himself by setting up a devastavit more than six years prior to the action.

SOLICITOR AND CLIENT—AGREEMENT AS TO COSTS—ATTORNEYS' AND SOLICITORS' ACT, 1870 (33-34 Vict. c. 28), s. 4—(R.S.O. c. 174, s. 54).

In *Clare v. Joseph* (1907) 2 K.B. 369 the Court of Appeal (Lord Alverstone, C.J., and Moulton and Buckley, L.JJ.) have reversed a judgment of a Divisional Court (Darling and Ridley, JJ.). The action was by a client against solicitor to recover a sum of money had and received by the defendant while acting as the plaintiff's solicitor. The plaintiff alleged that by an oral agreement between himself and the defendant, the latter agreed to carry on an action against a third party on the terms that if successful he was to make no charge against the plaintiff for costs, but in case it was unsuccessful he was to be entitled to receive from the plaintiff the same amount of costs he would have recovered from the defendant if the action had been successful. The action had proved successful, but the defendant had retained a sum of money as costs out of the money recovered in the action. The jury found the agreement as a fact. The defendant contended it was invalid because not in writing, under the Solicitors Act, 1870, 33-34 Vict. c. 28, s. 4. (see R.S.O. c. 174, s. 54), and the Divisional Court gave effect to that contention, but the Court of Appeal held that the Act in question though providing that agreements under it shall be in writing, did not override the law as it previously existed enabling agreements as to costs to be made orally. See *Re Solicitor* 14 O.L.R. 464.

JUSTICES—JURISDICTION—BREACH OF PEACE—NO FORMAL CHARGE—POWER TO BIND OVER BOTH COMPLAINANT AND DEFENDANT TO KEEP THE PEACE—NO AVERMENT AS TO THREATENED BODILY HARM.

The King v. Wilkins (1907) 2 K.B. 380 was an application by a complainant to quash an order of justices of the peace,