

were, therefore, fixtures and not seizable under execution to the prejudice of the mortgagees. Judgment of ARMOUR, C.J., affirmed.

*Armour, K.C., and R. A. Pringle, for appellants. Aylesworth, K.C., and C. H. Cline, for respondents.*

Moss, J. A.] OATMAN *v.* MICHIGAN CENTRAL R. W. Co. [May 18.

*Appeal—Settlement of book—Appointment—Onus.*

Having regard to Rules 798 et seq., relating to appeals to the Court of Appeal, the burden of procuring from "the Court appealed from, or a Judge thereof" (Rule 798), an appointment to settle the appeal case or book, the parties being unable to agree, is upon the appellant. Rule 801 (3) enables the respondent to move in the matter, if so disposed; but it is the appellant's duty to enter the case with the Registrar and set down the appeal for argument; this he cannot regularly do without depositing the appeal books (Rule 812); and before they are deposited they must be settled.

*W. N. Ferguson, for plaintiff. D. W. Saunders, for defendants.*

From Divisional Court.]

[May 22.

MARSHALL *v.* INDUSTRIAL EXHIBITION ASSOCIATION.

*Negligence—License—Invitation.*

An appeal by the defendants from the judgment of a Divisional Court, reported 1 O.L.R. 319, was argued before ARMOUR, C.J.O., OSLER, MACLENNAN, MOSS, and LISTER, JJ.A., on the 21st and 22nd of May, 1901, and at the conclusion of the argument was dismissed with costs, the Court agreeing with the judgment below.

*W. Nesbitt, K.C., and C. L. Smith, for appellants. Lindsey, K.C., and W. R. Wadsworth, for respondents.*

Practice.]

[June 14.

IN RE TOWNSHIP OF METCALFE AND TOWNSHIPS OF ADELAIDE  
AND WARWICK.

*Costs—Scale of—Appeal from judgment of Drainage Referee.*

The costs of an appeal to the Court of Appeal from the decision of the Drainage Referee in a proceeding under the Drainage Act initiated before him should (if awarded to either party) be taxed on the scale applicable to appeals in cases begun in the High Court of Justice.

Decision of a Divisional Court, 19 P.R. 188, reversed.

*Langton, K.C., and C. A. Moss, for appellants. Folinsbee, and H. E. Rose, for respondents.*