

Under sub-s. 1 of s. 6 of the Ontario Act the employer is answerable, so far as the condition or arrangement of the ways, etc., is concerned, for the negligence of any person, whether in his service or not, to whom he intrusts the duty mentioned in the sub-section, in the performance of that duty, in the same way and to the same extent as he would have been answerable at the Common Law had he taken upon himself personally the performance of the duty; and where an appliance necessary for the safety of the workman is required in the course of the work, and the employer directs any one to provide it ready for the use of the workman, that person is one intrusted with the duty of seeing that the appliance is proper. *Giles v. Thames Iron Works Shipbuilding Co.*, 1 Times L. R. 469, and *Ferguson v. Galt Public School Board*, 27 A.R. 480, followed.

In this case it made no difference that it was not shewn that any one had been employed to put on the cleats as a separate piece of work; the defendants knew that the cleats were required and would be put on by the workmen whom they sent to do the work of shingling. If the plaintiff had been the workman intrusted with the duty, or even one of a number of workmen sent to do the work of shingling, different considerations would apply.

Lynch-Staunton, K.C., for plaintiff. *Riddell*, K.C., for defendants.

Falconbridge, C.J.K.B., Street, J., Britton, J.]
LEONARD v. BURROWS.

[Feb. 5.]

Appeal—County Courts—Order dismissing appeal from taxation of costs—Final or interlocutory.

An order made by the Judge of a County Court in a County Court action dismissing an appeal from a ruling as to the scale of costs upon taxation of the plaintiffs' costs of the action awarded by the judgment, is in its nature interlocutory and not final, within the meaning of s. 52 of the County Courts Act, R.S.O. 1897, c. 55, and no appeal lies therefrom to a Divisional Court to the High Court.

Blakey v. Latham, 43 C² D. 23, followed. *Babcock v. Stanish*, 19 P.R. 195, distinguished. In *Kreutziger v. Brox*, 32 O. R. 418, the question of the right to appeal was not raised or considered.

M. C. Cameron, for defendant. *W. H. Blake*, K. C., for plaintiffs.

Falconbridge, C.J.K.B., Street, J., Britton, J.]
OSTERHOUT v. OSTERHOUT.

[Feb. 20.]

Will—Construction—Bequest of personality—"Reversion"—Gift over—Life interest—Absolute interest.

The testator by his will gave, devised and bequeathed to his father "one-half of my ready money, securities for money . . . and one-half of all other my real and personal estate whatsoever and wheresoever,