

tion—in fact, it is inconsistent with the defendant's evidence—but I am satisfied that the deceased did tell Mrs. Wallace that the defendant had paid her \$100, and \$30, and three or four sums of \$10 each. This evidence was objected to; but it was clearly admissible even upon the narrow ground of being a statement against the interest of the deceased.

I will allow the defendants credit for the outside sum mentioned by Mrs. Wallace, \$170. Upon the evidence it is difficult for me to determine when these sums were paid. If I credit the \$170 as paid at the end of the third year I shall, I believe, be doing substantial justice between the parties.

The loan, with interest at five per cent. to the 5th April, 1910, will total \$747.50. Deducting \$170 from this, leaves a balance of \$577.50.

There will be judgment for the plaintiff for \$577.50, and interest thereon from the 5th April, 1910, with costs on the County Court scale; and the defendant will not be entitled to set-off costs.

The defendant has not asked for a stay of execution; and in view of this, I do not think that a declaration of lien is necessary.

The executor was justified in claiming the full \$700 and interest. The action was, therefore, properly brought in the High Court, and he will be entitled to costs out of the estate, as between solicitor and client, upon the High Court scale.

DIVISIONAL COURT.

NOVEMBER 13TH, 1912.

OLSON v. MACHIN.

Company—Wages of Employees—Action against Directors by Boarding House Keeper—7 Edw. VII. ch. 34, sec. 94—Note Given by Company for Indebtedness—Equitable Assignment.

Appeal by the plaintiff from the judgment of LATCHFORD, J., of June 24th, 1912, dismissing the action without costs.

The appeal was heard by RIDDELL, SUTHERLAND, and MIDDLETON, JJ.

H. A. Burbidge, for the plaintiff.

C. A. Masten, K.C., for the defendant.