

4. *Costs—Taxation of—Q. B. costs—When allowed.*]—Where a plaintiff obtained an interlocutory judgment for \$450, as to which the defendant did not defend the action, and afterwards a verdict for \$77 more,

Held, that the plaintiff was entitled to full Queen's Bench costs.

Pion v. Romieux, 7 M. R. 591, commented on. *Smart v. Moir*, 203.

5. *Practice—Stay of Proceedings until costs of former action paid—Appearance.*]—A defendant is not entitled to a stay of proceedings until the costs of a former action for the same cause of action are paid, when more than a year has elapsed since the entering of appearance in the former action, and no further proceedings have been taken therein, and the plaintiff is consequently out of Court.

Semble, An application for a stay of proceedings, until the costs of a former action are paid, cannot be made until the defendant has appeared. *Ewart v. Hanover*, 216.

6. *Costs—Taxation of—Oral statement before Master—Evidence on appeal from taxation—Taxation of costs of demurrer—Costs of application to reply and demur—Counsel fees—Discretion of Master to increase—Tariff—Interpretation of—Reference of counsel fees to Judge—Effect of omitting to refer—Appeal as to counsel fees.*]—Upon a taxation of costs before the Master, no evidence was produced upon a large number of items, but the parties relied merely on the oral statements of the respective attorneys, and the entries in the books of the Court and of the clerk in Chambers.

On appeal from the Master's taxation,

Held, that a Judge should not interfere when he has not before him the statements on which the parties chose to rely, or any proper evidence of the state of facts presented to the Master.

Held, also, that no evidence not before the Master should be used on the appeal.

A plaintiff applied for and obtained leave to reply and demur, and by the order the costs of the application were made costs in the cause. Plaintiff succeeded on the demurrer, and the defendant afterwards obtained leave to file certain pleas on payment of the costs of the demurrer.

Held, that the costs of the application to reply and demur were not part of the costs of the demurrer.

The Master for over ten years, and his predecessor before that, having interpreted the proviso for taxing increased counsel fees under item nine of the heading "Counsel Fees" in the tariff of February, 1875, as applying to all previous counsel fees in the tariff, as well as fees at trials, and this practice having been approved by the late Chief Justice Wood,

Held, that the application of the proviso being somewhat ambiguous, a Judge should not interfere with an interpretation supported by such long practice and such high authority.

The rules as to counsel fees provide that: "Where any fee is subject to be increased in the discretion of the Master, either party to the taxation may, during its progress, require that such item shall