

Chy. Div'l Court.]

[May 27.

IN RE SOLICITORS.

Costs—Solicitor and client—Taxation—Application by solicitor—Retainer disputed by one of two alleged clients—Multiplicity of proceedings—Taxation as to quantum—Question of liability reserved.

Where the solicitors sought to obtain an order for taxation of certain bills of costs against two alleged clients, one of whom disputed the retainer and opposed the application,

Held, reversing the decision of STREET, J., in Chambers, MEREDITH, J., dissenting, that, in order to avoid multiplicity of taxations, the usual order for taxation should be made as against the unresisting client; such taxation to be on notice to the other, who was to be at liberty to attend and intervene if so advised; and such taxation to be conclusive against him as to the quantum of liability, in case he should be ultimately found liable in an independent proceeding.

Per BOYD, C., and ROBERTSON, J.: In strictness, the solicitor may take out the common order to tax his own costs, even though he knows that the alleged client disputes his retainer as to the whole bill, and the client is at liberty thereunder to dispute every item on the ground of no retainer; but in such a case it is not well to force the client to contest the question of retainer before the Master, if he desires it to be tried by a judge or a jury, and to accomplish this the taxation should be limited to the quantum of liability.

Per STREET and MEREDITH, JJ.: It is reversing the proper order of events to allow a solicitor to put his alleged client to the expense of a taxation without requiring him first to show that he has a claim upon the client for the bill when taxed.

In re Jones, 36 Ch.D. 105; *In re Salaman*, (1894) 2 Ch. 301; and *In re Totten*, 27 U.C.R. 449, discussed.

Aylesworth, Q.C., for the solicitors.

W. H. Blake for the respondent, one Adair.

Q.B. Div'l Court.]

[May 31.

CLOUSE v. COLEMAN.

Discovery—Bodily injury—Examination by medical practitioner—54 Vict., c. 11—Questions.

By 54 Vict., c. 11, it is provided that an order may be made directing that the person in respect of whose bodily injury damages or compensation is sought in an action "shall submit to be examined by a duly qualified medical practitioner."

Held, that the statute does not authorize the putting of questions by the medical practitioner to the examinee.

H. S. Osler for the plaintiff.

Bristol for the defendant.