

*AUTHORITY OF COUNSEL TO COMPROMISE ACTION.*

The recent decision of the English Court of Appeal (Collins, M.R., and Romer and Mathew, L.JJ.,) in the case of *Neale v. Gordon-Lennox*, 112 L.T. Jour. 546, reversing the decision of Lord Alverstone, C.J., seems to throw the law as to the power of counsel to effect a compromise, into a state of confusion in Ontario. Following a decision of the English Court of Appeal in *Stokes v. Latham*, 4 Times R. 305, a Divisional Court (Meredith, C.J.C.P., and Rose, J.,) held in *Benner v. Edmonds*, 19 P.R. 9, that a compromise of an action by a plaintiff's counsel without authority is not binding on the plaintiff and may be set aside, even though such want of authority is not known to the other side. Now the Court of Appeal in *Neale v. Gordon-Lennox* holds that a compromise effected by counsel, even though against the instructions of his client, is binding, and cannot be set aside where the fact that the counsel is acting contrary to his client's instructions is not known to the other side. Whether *Stokes v. Latham* was considered or cited in the recent case does not appear from the note in the Law Times Journal. That case never got into the regular reports, and it is possible that the reason it did not was because the discriminating reporter may have come to the conclusion that it was "bad law." It would probably be a good plan for our Courts to hesitate about deciding cases on the authority of decisions reported only in such ephemeral publications as the Times Reports, especially where unsupported by any decision in the more carefully edited reports. *Stokes v. Latham* was eminently a hard case; it appeared that the plaintiff's solicitor was only anxious to secure his costs, that his bill was £268, and he instructed a compromise for £150 which he immediately obtained payment of to himself under a charging order obtained before his bill was taxed; at the same time there was no evidence that the defendant had not acted perfectly bona fide, and yet the Court granted a new trial without even requiring the £150 to be refunded. The question arises, which is now the law in Ontario, *Benner v. Edmonds* and *Stokes v. Latham*, or *Neale v. Gordon-Lennox*?