

## COURT OF APPEAL.

Osler, J.A.]

HOLMES v. BREADY.

[Feb. 19.

*Appeal—Taxation of costs in Court of Appeal—Form for appeal from taxation.*

An appeal does not lie to the Court of Appeal or a Judge thereof, but to the High Court or a Judge thereof, to review the taxing officer's taxation of the costs of an appeal to the Court of Appeal from a judgment of the High Court.

There has been no such change in the Act or Rules as to make *Petrie v. Guelph Lumber Co.*, 10 P.R. 600, inapplicable, and it is therefore to be followed. *C. A. Moss*, for the plaintiff. *G. G. Mills*, for the defendant.

## Province of Ontario.

## HIGH COURT OF JUSTICE.

Meredith, C.J., Rose, J.,  
MacMahon, J.]

[Feb. 26.

{ TATE v. NATURAL GAS AND OIL CO. OF ONTARIO.

*Parties—Addition of—Rule 206 (2)—Amendment—Alternative claim—Rule 192—Company—President—Contract.*

The plaintiff, having a claim for arrears of salary and damages for wrongful dismissal, sued the defendant company therefor, alleging an agreement made with the president and certain directors before the company's incorporation, and a subsequent by-law and resolution of the company ratifying the agreement. In consequence of what was alleged in the statement of defence, and after discovery had, the plaintiff applied for leave to amend by adding another company and the president of the defendant company as defendants, fearing that he might not recover against the defendant company, because, although they got the benefit of his services, it might appear that his contract was not with them, but with the other company, or that, from want of authority of those who assumed to act on behalf of one or other of the companies, his contract was in law with the president personally, or the president was liable to him in damages as upon a warranty of authority.

*Held*, that the plaintiff was entitled by virtue of Rule 192, to have the question as to which one of the three parties was responsible to him, decided in one action; and, although he had omitted to join two of them originally, an order should be made, under Rule 206 (2), adding these two as defendants at this stage of the proceedings, ROSE, J., dissenting. *Bennetts v. McIlwraith*, (1896) 2 Q.B. 464, followed.

*Aylesworth, Q.C.*, for plaintiff. *W. R. Riddell* and *A. D. Crooks*, for defendants and proposed parties.