

Meredith, C.J.]

GEARING v. ROBINSON.

[July 13.

Costs—Mechanic's lien—Appeal—R.S. O. c. 153, ss. 41, 42, 45.

Secs. 41 and 42 of the Mechanics' and Wage-Earners' Lien Act, R.S. O. c. 153, limiting "the costs of the action under the Act" to twenty-five per cent. of the judgment, besides actual disbursements, do not apply to the costs of an appeal from the decision of the Judge or officer trying the action.

Semble, that the costs of such an appeal are within the scope of s. 45.

Du Vernet, for plaintiff. *W. N. Ferguson*, for defendants.

Meredith, C.J., Falconbridge, J.]

[July 18.

PLESTER v. GRAND TRUNK R. W. CO.

Railways—Farm crossing—51 Vict., c. 29, s. 191—"Farm purposes"—Injury to stranger—Duty—51 Vict., c. 29, s. 289.

The defendants having, in compliance with the requirements of s. 191 of the Railway Act of Canada, 51 Vict., c. 29, made, and assumed the duty of keeping in repair, a crossing over their railway where it crossed a certain farm, nevertheless allowed it to get into an unsafe and defective condition whereby a horse of the plaintiff was injured. The plaintiff was at the time using the horse, with the permission of the owner of the farm, in hauling gravel from a part of the farm to the highway, for which purpose it was necessary to cross the railway.

Held, without deciding whether the right of user of such a crossing is limited to a user for farm purposes, but assuming it to be so limited, that the hauling of gravel was, under the circumstances, a farm purpose, and that the defendants owed a duty, even apart from s. 289, towards one using the crossing by invitation of the owner.

Nesbitt, Q.C., and *H. E. Rose*, for defendants. *Buckingham*, for plaintiff.

COUNTY COURT OF THE COUNTY OF YORK.

WARWICK v. THE COUNTY OF SIMCOE.

Municipal law—Liability of county for cost of advertising list of lands for sale for arrears of taxes—Persona designata—Mun. Act, ss. 271, 274.

Held, 1. A county municipality is not liable for the cost of advertising the county treasurer's list of lands for sale for arrears of taxes, although sent to the plaintiff by the county treasurer.

2. The county treasurer does not act as an officer of the corporation in relation to tax sales, and the duties connected therewith are not within the scope of his authority as county treasurer. He is merely persona designata on behalf of the local municipalities, and a creditor must look to him personally.

[TORONTO, FEB. 26, McDONNELL, C.J.]

This was an action brought to recover the amount of an account for publishing an advertisement of the County Treasurer's list of lands in the