

*Held*, that the assessments were invalid as containing no description of the locality of the lots.

Though the water lots in question were numbered according to a registered plan giving the dimensions, instead of being assessed as numbered lots according to such plan, they were assessed en bloc as having a frontage of 436 feet on the shore line of Lake Ontario, by a depth south into the lake of 660 feet. Lots as numbered on the plan were owned by different people; moreover, the plan only shewed a depth of individual lots on it of 100 feet.

*Held*, that the assessment was invalid as disregarding the essential requirements of R.S.O. c. 224, s. 13.

*Beck*, for plaintiff. *A. C. Macdonell*, for defendant Magann.

Falconbridge, C. J., Street, J.]

[Nov. 13.

MURRAY v. WURTELE.

*Revivor—Substituted plaintiff—Absence of consent—Liability for costs—Transfer of right pendente lite—Stay of proceedings.*

It may, in rare cases such as *Chambers v. Kitchen*, 16 P.R. 219, be "necessary or desirable" under Rule 396 to add or substitute a person as plaintiff, without the consent required by Rule 206 (3), upon the application of the opposite party; but where it becomes necessary to substitute a person as plaintiff without his consent, to prevent injustice, he should not be exposed, without some further action on his part or adoption by him of the position into which he is forced, to any liability for damages or costs.

Under the circumstances of this case, the fact that F. had become pendente lite the transferee of the promissory note sued on did not entitle the defendants to an order substituting him as plaintiff and making him liable for the costs of the action.

But the original plaintiff could not be allowed to prosecute the action further, because he has no longer any interest in it, and F. could not be allowed to do so because he had not caused himself to be substituted as a plaintiff, nor obtained leave to proceed in his own name upon the judgment pronounced in favour of the plaintiff, which had not been entered, but from which the defendants sought to appeal; and all further proceedings in the action should, therefore, be stayed, but without costs.

*J. H. Moss*, for plaintiff and Thomas Fraser. *J. E. Jones*, for defendants.

Trial of Actions, Boyd, C.]

[Nov. 14.

BROWN v. TORONTO GENERAL TRUSTS COMPANY.

*Donatio mortis causa—Banker's pass book.*

*Held*, that a banker's pass book given upon receipt of a deposit which was numbered, and in which it was stipulated that the deposit will not be