

Remarks upon former practice at Law and Equity as to allocaturs and certificates of taxation.

Hoyles, for the plaintiff.

C. J. Holman, for the defendant.

Falconbridge, J.] [August 28.

MACKENZIE *v.* CARTER.

Affidavits—Date of filing—Statement in notice of motion.

Upon a motion to commit the defendants, the court refused to allow the plaintiffs to read affidavits filed upon a previous application, the date of their filing not having been stated in the notice of motion; and also refused to allow the plaintiffs to read an affidavit filed after the service of the notice.

Masten, for the plaintiff.

Hoyles, for the defendant.

Osler, J. A.] [Sept. 13.

O'SULLIVAN *v.* LAKE.

Parties Appeal—Relief over.

The plaintiff served notice of appeal from the judgment of the Common Pleas Division, 15 O. R. 544, upon both defendants, and furnished both with security for costs of appeal, but disclaimed any relief against the defendant B., and brought him before the court only that the defendant L. might obtain any relief over against B. that he might consider himself entitled to. L. claimed no relief against B. in his pleadings or reasons of appeal.

Held, that B. was not a person who would, or might be, affected by a reversal of the decision complained of, and there was no reason for retaining him before the court.

E. A. Anglin, for the plaintiff.

Aylesworth, for the defendant Balfour.

Court of Appeal.] [Sept. 14.

ROGERS *v.* WILSON.

Mortgagor and mortgagee. Assignment of mortgage to third person—40 Vict. c. 20, s. 7 (O.).

The judgment of ROSE, J., 12 P. R. 322, affirmed.

C. C. Robinson, for the appellant.

A. M. Taylor, for the respondent.

Boyd, C.] [Sept. 17.

In re MCKEEN AND TOWNSHIP OF SOUTH GOWER.

Costs—Increased counsel fees—Arbitration Powers of taxing officer.

Item 153 of Tariff A, Con. Rules of Practice, should be read as part of item 164; and the taxing officers at Toronto have authority to consider the question of increased counsel fees in the case of an arbitration, where there is no cause in court and a reference to a local officer to tax costs has been made under R. S. O. (1887), c. 53, s. 24.

Middleton, for McKeen.

SUPREME COURT OF THE NORTH-WEST TERRITORIES.

[Reported for the CANADA LAW JOURNAL.]

Rouleau, J.]

REGINA *v.* WHITEBECK.

North-West Territories Act, R. S. C., c. 50, s. 90—Possessing intoxicating liquors without permission—Penally Permit to other person than defendant may cover liquor in possession of the latter.

The defendant was convicted for having in intoxicating liquor in his possession without the written permission of the Lieutenant-Governor, under sec. 95 of the North-West Territories Act.

On appeal, the appellant contended, 1st., that no penalty attached under this section for the offence stated in the conviction; and 2nd., that on its being shown that the liquor seized in the defendant's possession was covered by a permit, although such permit was in the name of a party other than the appellant, sec. 95, did not make such a possession an offence.

Sec. 95 reads as follows: "Every person who manufactures, makes, compounds, imports, sells, exchanges, trades or barter any intoxicating liquors or intoxicant, except by permission as aforesaid (that of the Lieutenant-Governor), or in whose possession or on whose premises *such* intoxicating liquor or intoxicant of any kind is or has been, shall incur a penalty," etc.