

to him, but the societies entertained doubts whether the words of s. 47 of R.S.O., c. 169, "share, bond, debenture, or obligation," applied to a savings bank account, and petitioned the Court under s. 49.

Held, that the word "obligation" covered the liability of the petitioners to repay the amounts deposited with them.

Held, also, that the doubts of the petitioners were reasonable, and they were entitled to costs.

Gibbons, Q.C., for petitioners.

Full Court.]

[Sept. 4.]

FINLAY v. MISCAMPBELL.

Master and servant—Workmen's Compensation for Injuries Act—Factories Act—R. S. O., c. 141—Ib. c. 208.

The plaintiff was employed by a sub-contractor to do work upon lumber after it had left the defendant's sawmill, and before it was shipped. The sub-contractor supplied water for the use of his men. The plaintiff, however, to get some fresher water to drink, went through the saw-mill (in which he had no business in connection with his work), and in returning, going out of his way through the mill, to assist a workman who was in difficulty with some planks, he fell into a hole in which a saw was working, and got injured.

Held, that under these circumstances, the plaintiff could have no claim against the defendants, either under the Ontario Factories Act, R. S. O., 1887, c. 208, or the Workmen's Compensation for Injuries Act, ib. c. 141.

Laidlaw, Q.C. and *Kerr*, for the plaintiff.
McCarthy, Q.C., and *Oster*, for the defendant.

Practice.

ARMOUR, C.J.]

[June 26.]

OUTWATER v. MULLETT.

Costs of the day—Postponement of trial—Counsel fees.

When the action came on for trial a postponement was applied for by the defendant, and was ordered upon payment of the costs of the day.

Held, that counsel fees were chargeable

and taxable according to the discretion of the taxing officer, and not according to any arbitrary limit.

Hogg v. Crabbe, 12 P.R., 14, dissented from.
D. Armour for the plaintiff.

C. J. Holman for the defendant.

MacLennan, J. A.]

[Sept. 8.]

FOSTER v. EMORY.

Division Court appeal—Judgment for \$100—Subsequent interest—R. S. O. c. 51, s. 148.

The "sum in dispute" upon an appeal from a Division Court, under R. S. O., c. 51, s. 148, is the sum for which judgment has been given in the Division Court.

Where judgment was given for \$100,

Held, that subsequently accrued interest did not make the sum in dispute exceed \$100.

A. C. Galt for the appellant.

Middleton for the respondent.

The Master in Ordinary]

[June 2.]

WANZER v. WOODS.

Domicile—Residence within Ontario—Rule-271 (c.)

The action was brought by a foreign company upon a contract made in a foreign country against two defendants, one of whom resided in Manitoba, and was there served with process. Upon a motion by this defendant to set aside the service it was contended by the plaintiffs that the other defendant was ordinarily resident or domiciled in Ontario, within the meaning of Rule 271 (c.), and therefore that the Court had jurisdiction.

It appeared that at the time of the motion the latter defendant was an employee of the government of the Province of Quebec; that prior to 1883 his domicile was in Quebec, whence he removed to Manitoba, where he resided till 1886; that he then went to Australia; that in 1887 or 1888 he returned to Canada, and resided part of the time in Toronto, and part of the time in Winnipeg, until September, 1889, when he returned to Quebec; that he remained while in Toronto for only three months at a time; that his wife had recently gone to