

of the occupant, being the homesteader, prior to the issue of the patent, and the municipality is not, in such case, limited to the special method of collection provided by s. 146.

In any event the sale will not be set aside when some of the taxes for which the lands were sold were assessed after the issue of the patent.

*Trueman*, for plaintiff. *Hannesson*, for defendant.

Metcalfe, J.]

JOHNSON v. HENRY.

[April 10.

*Practice—Stay of proceedings—Meaning of expression “usual stay.”*

When, at the close of the trial, counsel for the losing party asks the judge to grant the “usual stay” and the judge says “yes,” and nothing more is said, the meaning is that the successful party may sign judgment, but may neither issue an execution nor register a certificate of judgment until after the lapse of the time allowed for appealing from the decision.

*Galt*, K.C., for plaintiff. *Symington*, for defendant.

Robson, J.]

WRIGHT v. ELLIOTT.

[April 13.

*Practice—Costs—Action against member of legal firm, one of whom is not a solicitor—Counsel fees paid to partners in law firm—Law Society Act, R.S.M. 1902, c. 85, ss. 52 and 59.*

*Held*, 1. No solicitors' fees should be allowed on the taxation as against the plaintiff of the costs of the successful defence of an action against one member of a legal firm for whom the firm acts as solicitors, when another member is not a solicitor.

*Lindley on Partnership*, 7th ed., at p. 136; *Plisson v. Skinner*, 5 Terr. L.R. 391, and *Brown v. Moore*, 32 S.C.R., at p. 97, followed.

2. The defendant, however, may, in such a case, tax counsel fees actually paid to his partners. *Johnston v. Ryckman*, 7 O.L.R. 511, followed.

*Tench*, for plaintiff. *Deacon*, for defendant.

Robson, J.]

IN RE JICKLING.

[April 13.

*Practice—Surrogate Court, transfer from, to King's Bench.*

When a contentious matter arising in a Surrogate Court between the proponents of two different wills of the deceased is