

proceedings thereunder. The MASTER:—"The ground taken in support of the motion was that under Con. Rule 1187 the taxation should be before the proper taxing officer for the county of Kent, being the county in which the solicitor resides. It may be admitted that the præcipe order in this case was irregular, and if this motion had been made before anything had been done under it by the clients, it would have been set aside with costs. But the case as it now stands is very different. The order though irregular was not a nullity, and when that order was obeyed without any objection, and an enlargement asked for and granted, and objections to the bill were brought in and an enlargement obtained for the taxation to proceed, it is altogether too late to raise any question of irregularity. Such an objection can only be successfully taken if 'made within a reasonable time, and shall not be allowed if the party applying has taken a fresh step after knowledge of the irregularity.' Con. Rule 311. Justice will be done in this case by dismissing the motion without costs." F. Aylesworth, for the clients. S. S. Mills, for the solicitor.

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DIXON V. GEORGAS BROTHERS—LENNOX, J.—DEC. 11.

*Fraudulent Misrepresentation—Sale of Business—Evidence—Declaration of Co-partnership—Failure to Register—Remission of Penalties—Costs.*]—Action for \$1,500 damages for alleged false and fraudulent misrepresentations, and also for \$100 penalty against each partner, for failing to register the declaration of co-partnership required by statute. LENNOX, J., gave judgment remitting the penalties in question, in pursuance of the powers vested in him under 7 Edw. VII. ch. 26(O.). The judgment then proceeds: "the statute expressly provides that the costs of the action shall not be remitted. So far as this part of the plaintiff's claim is concerned, he could have sued in the County Court, if not in the Division. In the disposal I shall make of the costs it is not worth while to enquire, and I express no opinion, as to whether the Division Court has jurisdiction or not. The plaintiff would be entitled to the costs of this branch of his case then on the County Court scale, and the defendants to a set off of the extra costs of being brought into the High Court. The plaintiff could have moved for judgment upon the pleadings but I do not think any saving would have been affected in that way. . . . I shall treat the costs as above indicated, and although on taxation, the plaintiffs costs might