

[Prac. Cases.]

NOTES OF CANADIAN CASES.

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The tariff reads—"Schedule of goods taken in execution, including copy to defendant, if not exceeding five folios \$1, and for each folio above five, ten cents"; this is for the mere writing of the schedule and not a charge as in this case for the measuring, classifying and valuing of goods which requires skilled labour.

The words in section 51—"Strike out all charges for services which, in his opinion are not necessary to be performed," do not authorize the allowance of charges not expressly authorized by the tariff.

Nos. 3 and 5 referred back to the taxing officer to obtain further information and evidence if necessary, and to be allowed only if *really and necessarily paid*.

The sheriff charged poundage upon each of the seven writs, though all were issued by the same solicitor and were delivered at the same time to the sheriff who made one levy.

This charge was allowed.

Held, that this motion was properly made under R. S. O., c. 66, sec. 52, and that the plaintiffs were not barred for not following the directions of Rule 447, O. J. A., as that rule applies only to taxations before the taxing officers at Toronto, appointed under Rule 438 O. J. A., and not to local officers.

Clement, for the plaintiffs.

Aylesworth, for the defendants.

Order accordingly.

The Master in Chambers.]

[Nov. 29.]

MCLAREN v. STEPHEN.

Action upon appeal bond—staying proceedings.

An action against the sureties upon a bond given by the defendants in the action of McLaren v. Canada Central Ry. Co., upon the

appeal of the defendants to the Court of Appeal in that cause. The defendants in McLaren v. Canada Central were now appealing from the Court of Appeal to Her Majesty in Council, and in that appeal security had been given and allowed, including security for the whole amount recovered, and execution has been stayed in consequence.

Held, that proceedings must also be stayed in this action.

Clement, for the plaintiff.

Holman, for the defendants.

Proudfoot, J.]

[Nov. 20.]

WILSON v. BEATTY.

Money in Court—Security—Payment out.

On the 16th Nov., 1881, an order was made directing D. to pay a certain sum of money into Court. D. appealed from this order to the Court of Appeal, and for the purpose of staying execution, instead of giving security, as required by R. S. O. c. 38, sec. 27, ss. 4, he paid this sum into Court, being authorized so to do by an order in Chambers. On the 27th October, 1883, the Court of Appeal reversed the order of 16th Nov., 1881. The respondents then gave notice of appeal to the Supreme Court of Canada.

Held, that the money paid in by D. must be taken to have been so paid in lieu of the bond required by the statute; when the decision in appeal was given in D.'s favour, the money had served the purpose for which it was paid, and ought to be repaid.