

appealed from, or the death of such judge in that period, would effectually stop any leave to appeal being granted by the Full Court.

5 By his withdrawal of his application Mr. Sawyerr has deprived his client — who, I learn from para. 3 of the affidavit, is absent from the Colony — of the right of appeal, except by the far more expensive process of going to the Privy Council direct, a right saved by s.28 of the Order of the King in Council.

10 The application not having been pursued must be taken to have been abandoned. It seems to me that the frivolous nature of Mr. Sawyerr's objection brings it dangerously near those cases in which the court has to order the solicitor to pay the costs, but in all the circumstances I hold that the costs entailed by to-day's proceedings and those of Wednesday, February 7th, should be borne by the appellant.

15 BUTLER-LLOYD, Ag. J. and PURCELL, C.J. concurred.

Application deemed abandoned.

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ROLLINGS v. BARROW and BARROW

Supreme Court (Purcell, C.J.): April 23rd, 1923

25 [1] Employment — inducing breach of contract — act of third party — third party knowingly procuring servant to break contract, or harbouring servant already in breach, liable in damages for consequential loss to master: Anyone who knowingly interferes with the contractual relations subsisting between a master and servant by procuring the servant to leave his master during the stipulated period of service or by harbouring a

30 servant who has already left his master in breach of his contract of service, is liable in damages for any loss caused to the master by his own wrongful act (page 86, lines 19—25).

35 [2] Tort — inducing breach of contract — contract of employment — third party knowingly procuring servant to break contract, or harbouring servant already in breach, liable in damages for consequential loss to master: See [1] above.

The plaintiff brought an action against the defendants for damages for the loss of the services of her servant consequent upon the defendants' enticement of him away from her.

40 The plaintiff employed a boy whom the second defendant, her next-door neighbour, found injured in the street and took into her

own home. After the boy had been treated in hospital he returned to the defendants' house and was allowed to remain there for a few days. Despite a letter from the plaintiff's solicitor to the defendants threatening legal proceedings if the boy were not returned to the plaintiff, the boy was instead handed over to the Tribal Ruler with whom he remained. 5

The plaintiff brought the present proceedings contending that since the defendants, knowing that the boy was her servant, had wrongfully enticed him away from her in breach of his contract of service, she was entitled to damages from them for the loss of his services. 10

The court gave judgment for the plaintiff.

PURCELL, C.J.:

The claim in this action is as follows: 15

“The plaintiff has suffered damage by the defendants on February 23rd, 1923 wrongfully enticing and procuring one David who was then in the service of the plaintiff as a domestic servant to depart from the said service unlawfully and without the consent and against the will of the plaintiff whereby the plaintiff was deprived of the services of the said David and was put to great inconvenience. 20

Damages . . . £55.0s.0d.”

The facts which are set out fully in the notes of evidence taken at the trial may thus be very briefly summarised. The parties in this action were next-door neighbours and before this occurrence not at all unfriendly. On Friday, February 23rd Mrs. Barrow took the boy David into her house at some time during the evening because she found him in the street outside the plaintiff's house with a bleeding face. The boy had been in hospital for some time just previously on account of injuries received in a motor accident. Inspector Warren was communicated with and the boy was taken to the hospital by a constable and attended to afterwards. On that same evening it was sought to return the boy to the plaintiff's custody but the house was shut and he failed to get in and in consequence slept that night at the police station. On the next day, February 24th, Inspector Warren took this boy to Dr. Williams' house and left him, but the boy did not stay there but returned to the defendants' house where he seems to have remained and he slept there on the nights of February 24th, 25th and 26th. In the afternoon of February 26th the defendants 25 30 35 40

received the following letter from Mr. Boston (the plaintiff's solicitor):

“Dear Sir,

5 I have been consulted by Mrs. Rollings of Trelawney Street, Freetown, with reference to the detention by you of her boy David.

10 I have already advised my client as to the steps open to her but before proceeding further in the matter I am writing to request you to deliver up the boy to his mistress at once and would warn you that in the event of your failing to comply with this request I shall be compelled to institute legal proceedings against you.”

15 This letter was entirely ignored on the advice of Inspector Warren, and the next day, February 27th, the boy was handed over by Inspector Warren to the Tribal Ruler where he has since remained and in consequence of which this action has been brought.

20 Now the law on the matter of enticing away and harbouring servants is as follows: Every person who knowingly interrupts the relations subsisting between master and servant by procuring the servant to depart from his master during the stipulated period of service or by harbouring a servant who has left his master's employment in breach of his contract of service, whereby the master is injured, commits a wrongful act for which he is responsible in damages.

25 The findings of the court are as follows:

30 (i) I find it exceedingly difficult to understand how Mrs. Barrow can justify her attitude in this matter, but I am satisfied that had Mrs. Rollings acted with regard to either of Mrs. Barrow's children in exactly the same way as Mrs. Barrow has acted regarding this boy David, she would feel very deeply aggrieved.

(ii) That the relation of mistress and servant existed at the time in question between Mrs. Rollings and David.

35 (iii) That the defendants interrupted such relation by their action in taking the boy away and not returning him when requested to do so.

40 (iv) That however praiseworthy their intervention was in the first place, it is clear that the boy should have been returned at the earliest possible moment after he had left the hospital on the evening of February 23rd after the police had decided to take no proceedings.

(v) That the letter from plaintiff's solicitor of February 26th was one that required an immediate answer — and should have

resulted in the immediate return of the boy David to the plaintiff.

(vi) That the defendants must in the circumstances be held liable in law for the boy's removal to the custody of the Tribal Ruler although it may be that Warren and the Tribal Ruler would be equally liable were an action brought against them.

I assess the damages at £10.0s.0d with costs.

Judgment for the plaintiff.

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GENET v. SCHUMACHER AND STRAUMANN (No. 3)

Supreme Court (McDonnell, Ag. C.J.): September 24th, 1923

[1] Civil Procedure — costs — taxation — solicitor as advocate — acting alone, entitled to fees under Appendix N, items 166—171 of Supreme Court Rules (cap. 205) — acting as advocate and employing counsel, fees under Appendix N, items 173—177 — item 172 is sub-heading so wrongly numbered: A solicitor who acts alone as advocate in a cause is entitled to fees under Appendix N, items 166—171 of the Supreme Court Rules (cap. 205); one who both acts as advocate and briefs counsel in the same case is entitled to fees under Appendix N, items 173—177; item 172 of the Appendix is in fact a sub-heading and should not therefore have been numbered (page 89, lines 3—14; page 89, line 40—page 90, line 4).

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[2] Legal Profession — remuneration — costs — solicitor as advocate — acting alone entitled to fees under Appendix N, items 166—171 of Supreme Court Rules (cap. 205) — acting as advocate and employing counsel, fees under Appendix N, items 173—177: See [1] above.

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[3] Statutes — interpretation — structure and parts of statute — headings — heading governs all matter following it and preceding next heading, including anything under sub-heading: A heading within a statute governs all matter which follows it and precedes the next heading, including anything appearing after a sub-heading (page 89, lines 3—14).

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The applicant applied for a review of the taxation of the costs awarded to the respondents in respect of proceedings between the parties.

In the proceedings the respondents' solicitor had both acted as advocate and employed counsel and in their bill of costs the respondents claimed fees under Appendix N, items 172—177 of the Supreme Court Rules (cap. 205). The taxing master allowed this claim to stand and the applicant then applied for a review of the taxation contending that — (i) the respondents' solicitor was not entitled to brief counsel when he himself was acting as

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