

**County Court—"County Court Act 1890" (No. 1078), sec. 148**—*County Court Rules, rr. 445, 446—Scale of Costs, Item 11—Action of tort remitted from Supreme Court—Claim for more than £1000—Amount recovered £400—Fee to Counsel.*—In the action of *Horton v. Keenan*, the plaintiff had issued a Supreme Court writ, claiming £5000 damages for breach of promise of marriage. The action was remitted to the County Court, and was tried before a Judge and jury, the result being a verdict for the plaintiff for £400, for which sum judgment, with costs, was entered for the plaintiff. On taxation of the plaintiff's costs as between party and party, the Registrar held that plaintiff's Counsel was entitled to a fee of fifteen guineas under Rule 445, according to the amount claimed, and that the fee should not be regulated by the Scale of Costs, Item 11, and Rule 446, as contended for the defendant, in which case the fee would only be seven guineas, according to the amount recovered. The defendant brought a summons to review this taxation, which was heard on the 17th March.—Judge CHOMLEY decided that the Taxing Officer was wrong, and that a fee of seven guineas only should be allowed. His Honour said that sec. 148 of the "County Court Act 1890" gave the Judges power to frame rules and orders for regulating the practice, and to fix the scale of fees and costs to be allowed to practitioners. That section empowered the Judges to make the rules to fix the scale of costs, and the Judges had purported to do so. Under that power, they were not enabled to make any rule relating to costs generally, so that if the contention of the plaintiff, that Rule 445 was an addition to the scale of costs, were correct, that rule would be *ultra vires*. Rule 445 must be read along with the scale of costs, and be amenable to the provisions of that scale as to the amount recovered as between party and party. Rule 445 meant only that, as between solicitor and client, without the operation of that rule the solicitor would be entitled to pay Counsel and charge his client only seven guineas. The ordinary scale applied to the fee of Counsel on both sides, and as between party and party, the amount recovered regulated the fee to be paid.—The summons was allowed, with £1 1s. costs.—MACARTHUR for the defendant (instructed by Messrs. Gillott, Bates and Moir); the MANAGING CLERK of Messrs. Strongman and Crouch for the plaintiff.—[Supplementary to report at C.N. 17.]

**County Court—"County Court Act 1890" (No. 1078), sec. 64, sub-secs. 3, 7**—*Judgment by default—Summons to set aside—When should be made.*—In *Ingham v. Gilding*, an action was instituted by special summons, under sec. 64 of the "County Court Act 1890," and the plaintiff, no notice of intention to defend having been filed, signed judgment by default under sub-sec. 3. On 10th March, the Registrar sent notice of judgment to the defendant, under sub-sec. 7, intimating that the defendant might apply to the Judge of the Court to set aside such judgment, and unless he so applied within seven days from 11th March, 1904, execution might be issued for the satisfaction of such judgment. On 18th

March, the defendant took out a summons, returnable before the Judge in Chambers on 21st March, asking that the judgment be set aside. Before the issue of this summons, defendant filed with the Registrar an affidavit as to the merits, and disclosing grounds of defence. The summons came before Judge Hamilton on 21st March.—SCHUTT, for the plaintiff, took the preliminary objection that the defendant was too late, the application not having been heard within seven days from the date (11th March) mentioned in the Registrar's notice.—*Re Doria*, 8 A.L.R. (C.N.) 93, 28 V.L.R. 464.—The MANAGING CLERK for defendant's solicitors, *contra*, submitted that sub-sec. 7 merely prevented a plaintiff from issuing execution within seven days from the date mentioned in the notice in the absence of an order for immediate execution; that the application to set aside was brought under sub-sec. 9, which fixed no time limit; that if sub-sec. 7 did fix the time of application, the filing of the affidavit of merits and issuing of the summons within the time was a sufficient compliance, and that in any case the Judge had power to hear the application at any future time, on the authority of *Bainbridge v. Maynard*, 16 V.L.R. 122.—Judge HAMILTON said that the defendant was bound to apply within seven days after the date mentioned in the Registrar's notice; that the "application" referred to in sub-sec. 7 meant the appearance before the Judge, and that, as the summons was taken out on 18th March, but the appearance before him was not till 21st March, the defendant was too late. The summons would accordingly be dismissed, with £1 1s. costs, *Re Doria* being a decision which concluded the matter.—Solicitors: For plaintiff, C. H. Lucas; for defendant, Strongman and Crouch.

**High Court—Court of Disputed Returns**—*"Federal Electoral Act" (No. 19 of 1902), secs. 111, 139, 147, 200—Election petition—Form Q—Initialling ballot papers—Place for initials—Postal votes—Counter-foils—Numbers not corresponding—Postal votes—Marks-men disqualified—Scrutiny to ascertain nature of vote—Disallowance of—Mistake of officer—Costs on lower scale.* In the High Court, at Melbourne, on April 11, 12 and 13, in *Chanter v. Blackwood*, GRIFFITH, C.J., sitting as the Court of Disputed Returns, heard the petition of J. M. Chanter against the return of R. O. Blackwood, as member of the House of Representatives for Riverina. Pursuant to a previous order of the Court, made upon the respondent's application, a re-count of votes had been conducted by the Deputy-Registrar of the Court, revealing a majority of fifty-seven in favour of the petitioner, Mr. Chanter. During the hearing of the petition, this majority diminished to fifty-five, as against which the respondent showed that ninety-three votes had been cast which were bad, for various reasons appearing below.—BRYANT, for the respondent, objected to 160 votes in the form "Q," on the ground that the elector's name did not appear, also to 105 votes in which the polling place where the elector was registered was not named, and to ninety-three votes in which the division was not stated,