

being the balance of a certain sum of money which he wrongfully and unlawfully took away, or stole, from the plaintiffs, on or about the 25th September, 1847, as appears by a certain acknowledgment in writing, bearing date the 16th November, 1847, signed by the said Stoffel Manuel."

Barry & Co.
v.
Manuel.

The defendant did not appear.

Watermeyer, in support of the plaintiffs' claim, put in the following document:—

"I, Stoffel Manuel, do declare that, on or about the 25th September last, I took from the iron chest of Messrs. Barry & Nephews' store, at Breda's Dorp, £61, all in gold money, £35 of which I returned to Mr. Helm.

"STOFFEL MANUEL.

His + mark.

"Witness thereto, J. IRISH.

"Before me, at Caledon, 16th Nov., 1847.

"J. NEEDHAM, J.P."

The Chief Justice and Musgrave, J., held that this document was not such a liquid acknowledgment of debt, or promise to pay, as was sufficient to support the plaintiffs' claim for provisional sentence, which they refused accordingly.

Menzies, J., thought it was sufficient, and that provisional sentence ought to be granted.

-
1. ATTORNEY'S BILL OF COSTS—WITHOUT NOTICE OF
TAXATION.
2. ———— WHEN INSUFFICIENT.
-

1. DE WET v. MEYER.

[28th February, 1834.]

Provisional Sentence refused on a Bill of Costs, where it did not appear that the same had been Taxed in the Presence of the Party.

In this case, provisional sentence was sought by an attorney against his client for the amount of two bills of costs, which had been taxed.

Cloete, for the defendant, objected that the bills had been taxed in the defendant's absence, without any notice having been given of the taxation.

De Wet
v.
Meyer.

De Wet
v.
Meyer.

The Court refused provisional sentence, in respect that no sufficient evidence was produced that the bills had been taxed in defendant's presence, or after due notice had been given to him to attend the taxation.

[The same judgment was given this day in the case of Truter and another *v.* Grimbeek, although no appearance was made for the defendant.]

2. DICKSON *v.* GILDENHUYS.

[13th July, 1846.]

Provisional Sentence refused in favour of an Attorney against his Client, the Plaintiff in a previous Action, on a Taxed Bill for the Costs in that Action which the Defendant therein had been condemned but had failed to pay.

Dickson
v.
Gildenhuys

The defendant, Gildenhuys, in this case, was summoned to render to the plaintiff, Dickson, £1 11s. 3d., which it was alleged he owed to the plaintiff upon and by virtue of a certain bill of fees and disbursements due to the said plaintiff, as the attorney duly qualified by a warrant of attorney, signed by the said defendant, on the 20th November, 1843, in favour of the said Dickson, in a certain clause, lately pending in the Supreme Court of this colony, wherein the said defendant, Gildenhuys, was the plaintiff, and one P. J. Anderson was the defendant, and "which bill has been duly taxed and allowed by the Master, as appears by the allowance at the foot thereof." The summons also called on the defendant to acknowledge the signature affixed to the said warrant, or the validity of the said debt, and to plead to the provisional claim of the said plaintiff.

The fact was, that Anderson, the defendant in the original action, who had been condemned to pay to Gildenhuys the costs incurred by him in that action, had not funds sufficient to pay these costs to the present plaintiff, who therefore sought to recover them from his client, the defendant in this action.

But the Court held, that neither the nature of the alleged debt now sued for, nor the documents relied on in support of it, were sufficient to entitle the plaintiff to obtain provisional sentence against defendant. Whereupon the action was allowed to be withdrawn, with costs of *comparuit* to defendant.