

incidental to the commission than would have been taxed if plaintiff Maclay had attended and given evidence at the trial, and the \$40 is not to be chargeable to defendant in any event. See *Mills v. Mills*, 12 P. R. 473.

Subject to the foregoing provisions, the costs of this motion and order will be in the cause to defendant only.

If plaintiffs do not accept these terms, motion dismissed with costs in any event to defendant.

ANGLIN, J.

JANUARY 23RD, 1905.

CHAMBERS.

RE WAKEFIELD MICA CO.

*Company—Winding-up—Contributories—Order as to—Leave to Appeal—Terms—Costs.*

Motion by the liquidator of the company for leave to appeal from order of ANGLIN, J. (4 O. W. R. 535) removing King and Johnson from the list of contributories.

A. J. Russell Snow, for the liquidator.

W. N. Tilley, for King and Johnson.

ANGLIN, J.—I am disposed to yield to this application if I can safeguard the rights of all parties by imposing proper terms, not because I entertain any doubt of the correctness of my decision, but to enable the parties to secure the opinion of an appellate Court upon a question in which I found myself obliged to differ from the conclusion reached by the learned Master at Ottawa.

Mr. Tilley urges that, if leave be given as asked, it should be on condition that the liquidator appeals also from that part of my judgment upholding the Master's refusal to place Messrs. Chubbuck and Holland upon the list. This I think only fair in order that the appellate Court may be free to do complete justice between the parties interested. But, inasmuch as the liquidator is not desirous of appealing against the latter part of my judgment, and such appeal, if prosecuted, would be largely for the benefit of Messrs. King and Johnson . . . I think it only just that they should indemnify him against all costs to which he may by reason of bringing such appeal be put. . . .

Should Messrs. King and Johnson not furnish such indemnity to the satisfaction and under the direction of the Registrar within 2 weeks, the liquidator will have unconditional leave to appeal as he desires. In any event costs of