

only transferred by way of mortgage, and to make him account for the difference, he having, as alleged, sold them for 40c., and so made a profit of \$15,000. The statement of defence admitted that the defendant bought 100,000 shares at 25c. with the consent of the plaintiff and Crawford, but says he was acting as agent for Crawford, and as his solicitor, when he sold Crawford's interest in the mine for \$180,000, and received for his services a commission of \$12,500. He denied that the plaintiff had anything to do with this matter, and said he has no status to bring this action, all claims as between Crawford and himself having been settled, and a full release given to Crawford for any claim for costs, or otherwise, arising out of this transaction. The plaintiff on examination of Bartram for discovery got him to admit that he acted as solicitor for Crawford in the matter, but the defendant refused to answer any other questions, or to produce his books and docket, whereupon the present motion was launched. Judgment: "At the present stage I do not think this further examination and production can be ordered. The defendant admits that he acted as solicitor for Crawford, and took a so-called commission for \$12,500 in lieu of any claim for costs. This he contends puts an end to any attack by Crawford, and he further says that the plaintiff in any case cannot maintain the action, as the claim in any case is not assignable. It would seem that the plaintiff must first establish the right of Crawford to an account, and then his own status to proceed against Bartram as Crawford's assignee. Any further discovery would appear to be merely consequential, so that the motion fails, and will be dismissed with costs to the defendant in the cause." S. R. Clarke, the plaintiff, in person. F. E. Hodgins, K.C., for the defendant.

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LAURENTIAN STONE CO. v. BOURQUE—SUTHERLAND, J.—APRIL 19.

*Costs of Counterclaim—Claims Allowed in Report as on Counterclaim—Confirmation by Lapse of Time—Appeal from Taxation too Late.*—Appeal by the plaintiffs from the certificate of the deputy registrar at Ottawa on the taxation of the costs of the defendants Joseph Bourque, and Joseph Bourque & Cie, of their counterclaim. The ground of the appeal was that there was no counterclaim of which any costs could be allowed, and it was conceded that if any costs were allowable, they must be upon the High Court scale. The learned Judge held that the appeal must fail. While ostensibly an appeal from the deputy regis-