

of an amending Act and for services rendered to the company after organization. The solicitors had already been paid \$250 on account, leaving a balance claimed of \$838. There was no provision in the Act for payment by the company of the costs and expenses of obtaining the Act and preparatory thereto.

*Held*, that, without such a provision in the Act or charter incorporating a company, it is not liable for the expenses of procuring its incorporation unless after incorporation it agrees to pay them. *Hamilton*, 69; *Lindley*, 196, and *Healey*, 557.

The opinion expressed in *Brice on Ultra Vires*, at p. 770, that the solicitors would have an equitable claim against the company on the ground that it had taken the benefit of the solicitor's services, is expressly dissented from in *In re English and Colonial Produce Company, Ltd.* (1903), 2 Ch. 435.

*Held*, however, that, as the company might have paid the solicitor's pre-incorporation costs, *Gore-Brown on Companies*, 119, they should now be permitted to appropriate the \$250 already paid to such costs as was done in that case.

The company was a mutual hail insurance company and the Act permitted the directors to make assessments annually to cover only losses by hail during the crop season, and the expenses for the year, so that no assessment could be made to pay any part of the solicitor's bill. There was, however, a reserve fund accumulated under the Act which might "be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year."

*Held*, that those creditors for the payment of whose claims an assessment could be made should be compelled, in the first place, to have recourse to that method of payment, so as to leave the reserve fund available as far as possible to pay the solicitor's bill. The assessment already made to stand and the proceeds to be applied first in payment of the claims against the company other than the costs in question; any remaining debts, including the amount found due on taxation to the solicitors for services subsequent to the incorporation, to rank pro rata on the reserve fund, after payment of the receiver's costs.

*Patterson*, D.A.G., for Attorney-General; *Mulock*, K.C., for receiver. *Minty*, for solicitors.