

Simons v. James, 1 Y. & C. 490: and agreed in allowing the appeal.

FALCONBRIDGE, C.J.:—The law is quite well settled, and I think this case must be treated as a decision on questions of fact arising upon the letters and conversations of the solicitors.

Such being the case, I see no reason for dissenting from the learned Judge's conclusion, and I would dismiss the appeal with costs.

Appeal allowed with costs; FALCONBRIDGE, C.J., dissenting.

B. E. Swayzie, Toronto, solicitor for plaintiff.

M. P. Vandervoort, Toronto, solicitor for defendants.

JUNE 13TH, 1902.

DIVISIONAL COURT.

McLAUGHLIN v. McLAUGHLIN.

*Costs—Partition Proceeding—Taxed Costs—Special Circumstances.*

W. A. Skeans, for adult defendants.

F. W. Harcourt, for infant defendants.

J. G. O'Donoghue, for plaintiffs.

Appeal by adult defendants from order of ROBERTSON, J., ante p. 378.

THE COURT (MEREDITH, C.J., MACMAHON, J., LOUNT, J.) made an order directing that the costs of plaintiffs, of official guardian, and of adult defendants, as between party and party, be taxed and paid out of the estate of John McLaughlin, deceased, in lieu of commission, and dismissing the appeal without costs.