

The learned Master, therefore, I think, erred in allowing all the costs between solicitor and client incurred in the action. They should have been apportioned so as not to charge the defendants with so much of them as were properly referable to enforcing the claim for indemnity. . . .

The amount to be allowed to plaintiff for journeys in connection with the litigation must be dealt with in the same way, and of course all journeys in connection with the payment of the \$400 into Court or the sale of the goods must be disallowed, applying the same principle upon which I have held that the items forming classes 1 and 2 are to be dealt with.

There will be no costs of the appeal to either party.

TEETZEL, J.

OCTOBER 23RD, 1903.

RE BAILEY.

CHAMBERS.

Will—Construction — “ Money ” — Residuary Personal Property — Pecuniary Legacies — Insufficiency of Personal Estate for—Resort to Residuary Real Estate—Devise of Land—Mortgage—Execution.

Application by executors for order declaring construction of will of John Bailey and giving directions as to the distribution of his estate; also on application by John Sidney Bailey, one of the devisees, for an administration order. The testator had four sons and five daughters. To each son he devised a farm with specific description, and also bequeathed them legacies, viz.; to Edward, \$1,000 either in money or stock; to Henry, \$2,000 either in money or stock; to Robert, \$1,000 either in money or stock, and sufficient seed and feed; to John Sidney, all the chattels and implements upon the farm devised to him. To each daughter he bequeathed \$2,000. He then made the following provisions as to the residue: “ 6. I give to my wife all the money that remains after paying my former bequests, debts, and funeral expenses, and a family monument to cost not less than \$500. . . . and all that may accrue from the farm during her term of management to dispose as she pleases, but if she should die without disposing, then I order that the undisposed part be equally divided amongst my sons and daughters