The Master:—The affidavit filed in answer to the motion states as follows: The solicitors first acted for the committee of creditors of one Setros, and so acted from 11th June to 12th October, when Setros made an assignment to Dunbar. Thereafter the solicitors acted for Dunbar as such assignee. On 16th October an agreement was arrived at whereby the assets were sold, and the purchaser was to pay a sum equal to 50 per cent. of all creditors' claims accrued prior to 11th June, 1908—the rest to be paid in full, "together with the assignee's costs and charges, as well as his solicitor's costs, but the aggregate of said sums was not to exceed $15,000."

In order to adjust the sale, Dunbar requested a statement of the amount of the costs, which the solicitors put at $400, but Dunbar, for greater certainty, put them at $450. The sale was accordingly carried out for $15,000, after the items of the estimated liabilities, including this $450, had been gone over and agreed to.

Afterwards the solicitors were requested by the chairman of the inspectors to put in a bill, so that it might appear among the records, but not to go into too great detail—to summarise as much as possible. The bills in question were thereupon forwarded, but only on that understanding.

The contention of the solicitors is, that they are entitled to the $400 as money paid for their use to the assignee by the purchaser. Whether they can, under the authorities, maintain that position, is not for me to say. But it is clear that, if there is to be a taxation, they should be allowed to deliver new bills for that purpose—undertaking not to ask for more than $440 in any event.

They must either do this or else bring action for what they think they are entitled to, within a week, in which case the defendant will have in effect a security for costs. If they elect to take action, the costs of this motion will abide the result. If they submit to taxation, the costs will be in the discretion of the taxing officer, who will, no doubt, consider whether or not any such substantial gain accrues thereby to the client as to justify that proceeding and this motion, on which it is founded.