

caution—and the Courts bound by English authorities cannot always agree with the conclusions there stated). I am of opinion the judgment below is right for the reasons given by Mr. Justice Latchford.

The plaintiff then has no interest in the interpretation of the will, and her appeal and the objectionable part of her action should be dismissed both with costs.

The application of certain of the defendants to be made plaintiffs should not at this stage be granted—no doubt the Court has power to make such an order, but the circumstances of this case are not such as to call for the exercise of such power—nor can any provision be made for the payment of the costs of the defendants, other than James H. Kennedy, supporting, as they did, the claim of the plaintiff.

FALCONBRIDGE, C.J.K.B.:—I agree.

BRITTON, J.:—I concur.

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IRISH V. SMITH—DIVISIONAL COURT—JUNE 8.

*Mining Act of Ontario, sec. 81—Agreement of Parties.*]—  
Appeal by W. J. Smith from the judgment of the Mining Commissioner, of the 29th April, 1911. The case was heard before BOYD, C., LATCHFORD and MIDDLETON, JJ., and the judgment of the Court was delivered by MIDDLETON, J., who said that the case did not come within sec. 81 of the Mines Act. "That section confers a new right upon a joint owner of a mining claim, and can only be applied where the case falls within its provisions. It provides that 'the holders of an unpatented mining claim shall each 'contribute proportionately to his interest, or as they may otherwise agree between themselves, to the work required to be done thereon.' The work 'required to be done' is the work stipulated for by sec. 78 as a condition of the holding of the claim, and does not cover any work beyond this, which the parties or either of them may think desirable. In this case the parties 'otherwise agreed,' as they arranged that subscriptions should be obtained for stock in a company to be incorporated if circumstances should justify it, and that the money so obtained should be used in the development of the property. The money expended was the money so obtained. The money received was in truth received on account of both owners, and the fact that one only of the two owners succeeded in obtaining subscriptions does