

BRITTON, J.—The action was properly brought in the High Court. The plaintiff's right to costs is simply because under Rule 425 he is in such a case offered his costs as an inducement to this termination of the litigation. *Babcock v. Standish*, 19 P. R. 195, followed. *Chick v. Toronto Electric Light Co.*, 12 P. R. 58, and *Tobin v. McGillis*, 12 P. R. 60, referred to as difficult to distinguish and not cited in the case followed. Motion dismissed with costs.

BRITTON, J.

FEBRUARY 9TH, 1903.

CHAMBERS.

LOVELL v. PHILLIPS.

Costs—Scale of—Jurisdiction of County Court—Ascertainment of Amount—Action for Price of Goods—Reduction of Claim by Trial Judge.

Appeal by plaintiff from taxation of costs by the senior taxing officer at Toronto. The action was brought in the High Court to recover \$340, balance of an account for \$790 for logs sold by plaintiff to defendant; \$450 was paid by defendant before action. The trial Judge found that the sale was made as contended by plaintiff, but reduced the amount by \$20, by reason of some of the logs not having been received by defendant. Upon this judgment, with no certificate, the taxing officer taxed to plaintiff costs on the lower scale only and to defendant the excess of his costs over County Court costs, and set them off pro tanto.

S. B. Woods, for plaintiff, conceded that, if the finding had been for \$340, he would have been entitled only to costs on the County Court scale, but contended that, as the trial Judge reduced the amount, no matter why, the finding was for an amount not liquidated or ascertained by the signature of defendant or by act of the parties.

H. D. Gamble, for defendant, contra.

BRITTON, J., held that plaintiff's contention could not prevail. *Furnivall v. Saunders*, 26 U. C. R. 119; *Ostrom v. Benjamin*, 21 A. R. 467, and *Brown v. Hose*, 14 P. R. 3, discussed. Appeal dismissed without costs.

MEREDITH, C.J.

FEBRUARY 9TH, 1903.

CHAMBERS.

EVOY v. STAR PRINTING AND PUBLISHING CO.

Security for Costs—Libel—Newspaper—Mistake—Apology—Good Defence—Grounds of Action Trivial or Frivolous.

Appeal by plaintiff from order of Master in Chambers (ante 91) requiring plaintiff to furnish security for defend-