

For the same reason the defendant was entitled to the costs of his application to be discharged from custody.

H. S. Osler for plaintiff.

M. Wilson, Q.C., for the defendant.

Court of Appeal.]

IN RE SOLICITOR.

Solicitor and client—Delivery of bill of costs—Taxation—Supplemental bill—Inadvertence—Special circumstances—Time.

A solicitor, in delivering a bill of costs, omitted to make any charges for "days employed in going to and returning from Ottawa" upon business for his clients. He stated that the omission was through inadvertence, and after taxation of his bill, but before the certificate was signed, applied for leave to deliver a supplemental bill, alleging that he would not have sought now to make these charges if the taxing officer had allowed him certain sums charged in the original bill for travelling expenses, but which were disallowed on the ground that he was travelling on a pass.

Held, that there was no clear evidence that the omission arose from mere accident or mistake, and that the court below could not be said to be wrong in holding that no special circumstances were disclosed for making the amendment.

Per OSLER, J.A.: It is too late to make such an application after the result of the taxation is known.

Judgment of the Queen's Bench Divisional Court, 14 P.R. 571, affirmed.

The solicitor appellant in person.

E. T. Malone for the respondents.

TALBOT v. POOLE.

Costs—Scale of—Action for breach of covenant—Title to land—Custom—Pleading—R.S.O., c. 51, s. 60, s.s. 4—Division Court jurisdiction—Rules 1170, 1172.

In an action brought in the High Court by a landlord against a tenant for damages for breach of the latter's covenants in a farm lease, the statement of claim alleged that the plaintiff by deed let to the defendant the land described for a term of years, and that the defendant thereby covenanted as set forth, and assigned as breaches of the covenants that the defendant did not cultivate the farm in a good, husbandlike, and proper manner. By the statement of defence the defendant denied all the allegations of the statement of claim, and further alleged that the defendant had used the premises in a tenant-like and proper manner, "according to the custom of the country where the same was situate." The plaintiff recovered a verdict of \$100, the action being tried with a jury. The title to the land was not brought into question at the trial, but it was contended that it came into question on the pleadings.