The bills have already been dealt with by a very experienced officer, and upon appeal his allowances were considered reasonable. It is not desirable that such a case should be brought before the Court of Appeal, or that it should be called upon to tax bills of costs, unless it becomes necessary in the regular course of procedure. It is too much to assume in advance that, if the bills are upheld by a Divisional Court, these clients will still be so dissatisfied as to desire to carry the case further; and I do not think that assistance should be given them to take other than the ordinary course of procedure. The solicitors themselves did not object to the order being made; but it does not appear to me that, where nothing but the reasonableness of the amount fixed by the Taxing Officer in the case of each item is involved, and no disputed question of fact or law arises, the ordinary course should be departed from.

The application is, therefore, refused.

HIGH COURT OF JUSTICE.

TEETZEL, J. AUGUST 5TH, 1911.

McGRATH v. PEARCE CO.

Water and Watercourses — Mill Privileges — Dam — Flooding Lands—Prescription—Damages—New Trial—Costs.

By the order of a Divisional Court (Cain v. Pearce Co., ante 887), a new trial of this action was directed, and was had before TEETZEL, J., before whom this action and three others were first tried (see 1 O.W.N. 1133).

H. E. Rose, K.C., for the plaintiff.
E. G. Porter, K.C., for the defendants.

TEETZEL, J.:—At the first trial in this case, judgment was given in favour of the plaintiff in respect of lot 8, but his claim in respect of lots 9 and 10 was dismissed. The defendants appealed from the judgment against them, but the plaintiff did not appeal against the judgment in respect of lots 9 and 10.

The Divisional Court gave judgment directing a new trial, and in the reasons for judgment nothing is said as to that part of the judgment which was in the defendants' favour, the only