

BRITTON, J.

FEBRUARY 9TH, 1903.

CHAMBERS.

SMELLIE v. WATSON.

*Appeal—Master's Report—Time Expired—Leave to Appeal
—Rule 353—Terms—Costs.*

Motion by defendant for leave to serve notice of motion by way of appeal from the report of the local Master at Guelph, dated 7th January, 1903, filed 12th January, 1903.

D. O. Cameron, for defendant.

W. H. Kingston, K.C., for plaintiff.

BRITTON, J.—Rule 353 should receive a liberal construction, and the application should be granted. Upon the defendant paying into Court the sum of \$150 to the credit of this cause, as security to the plaintiff in the event of plaintiff's ultimate success, and upon payment by the defendant of the costs of this application, the order may go for leave to serve notice of appeal. The money to be paid into Court, and the costs of this application to be paid, and notice to be served, on or before the 16th February, 1903. The plaintiff's costs of moving to confirm report already incurred, except so far as covered by the costs of the 3rd inst., already paid, to be costs in the cause to the plaintiff, in any event. If the defendant abandons, or does not proceed with his appeal, the costs of this motion to be costs in the cause to plaintiff.

BRITTON, J.

FEBRUARY 9TH, 1903.

CHAMBERS.

MCKELVEY v. CHILMAN.

*Costs—Scale of—Action for Trespass to Land—Value of Land
—Payment of \$1 into Court—Acceptance by Plaintiff.*

Motion by defendant to set aside taxation of plaintiff's costs and to direct taxation on Division Court scale and set-off under Rule 1132. The action was brought in the High Court for trespass to land. The land, as shewn by affidavit, was of value exceeding \$200. The plaintiff claimed \$1,000 damages. The defendant paid \$1 into Court and the plaintiff accepted it. No question as to the title to the land was raised by defendant.

J. L. Counsell, Hamilton, for defendant.

J. Dickson, Hamilton, for plaintiff.