

the appeal was as to the proper method of trial, and the appellants had been diligent in prosecuting the appeal and there was no suggestion of any possible loss of testimony.

*Arnold v. Toronto Railway Co.*, 16 P.R. 394, distinguished.

*W. M. Douglas* for the plaintiff.

*D. Armour* for the defendants.

MEREDITH, J.]

[April 20

GENERAL ELECTRIC CO. v. VICTORIA ELECTRIC LIGHT CO. OF LINDSAY.

*Pleading—Cross-counterclaim—Striking out—Rules 371-383.*

A person brought into an action as defendant to a counterclaim delivered by the original defendant cannot deliver a counterclaim against such defendant.

Such a pleading, not being authorized by the Rules or the practice, was struck out on summary application.

Construction of Rules 371-383.

*Street v. Gover*, 3 Q.B.D. 498, followed.

*Green v. Thornton*, 9 C.L.T. Occ. N. 139, distinguished.

*C. Millar* for the original defendants.

*J. A. Paterson* for the Canadian General Electric Co., defendants by counterclaim.

STREET, J.]

[April 25.

IN RE SOLICITORS.

*Solicitor—Client's moneys—Payment over—Summary order—Partnership—Misconduct—Disputed account—Striking name off roll.*

Upon a summary application by a client for an order for payment over by three solicitors of moneys of hers alleged to be in their hands as a firm, and, in default, for an order striking them off the roll,

*Held*, that, no professional misconduct being suggested against two of them, one of whom had left the firm before, and the other of whom was ignorant of the receipt of a large sum of money by the third, the summary order asked for could not be made against the two, although they might be liable in an action.

*Re Toms and Moore*, 3 Ch. Chamb. R. 41, and *Re McCaughey and Walsh*, 3 O.R. 425, followed.

And, it appearing that the third solicitor had a sum of money in his hands against which he had a claim for costs, an order was made for delivery and taxation of bills of costs and for an accounting, and for payment by him of the balance, if any, found due.

But, as he denied that any balance was due,

*Held*, that it would be unfair to add to the order a provision that, in default of payment, his name should be struck off the roll. Such a term, while frequently proper, is an uncalled-for slur upon a solicitor who has merely a disputed account with his client, or has been lax in rendering his bills.

*Re Bridgman*, 16 P.R. 232, distinguished.

*G. G. Mills* for the applicant.

*F. A. Anglin* for two of the solicitors.

*Shepley*, Q.C., for the third.