

should not be frustrated or interfered with by provincial legislation of the kind in question.

MABEE, J., gave reasons in writing for the same conclusion.

MAGEE, J., also concurred.

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GARROW, J.A.

NOVEMBER 5TH, 1906.

C.A.—CHAMBERS.

STEPHENS v. TORONTO R. W. CO.

*Appeal to Court of Appeal—Leave to Appeal from Order of Divisional Court—Practice—Scale of Costs—Conflicting Decisions.*

Motion by defendants for leave to appeal to the Court of Appeal from the order of a Divisional Court upon a question of practice as to the estate of costs taxable upon taking money out of Court paid in with the defence.

D. L. McCarthy, for defendants.

W. A. Skeans, for plaintiff.

GARROW, J.A.:—The point is one of considerable practical importance, and, in view of the difference of opinion expressed in the cases of *Chick v. Toronto Electric Light Co.*, 12 P. R. 58, and *Badcock v. Standish*, 19 P. R. 195 (in which apparently the earlier decision was not cited), the leave should be granted. But, as plaintiff acted upon the practice as settled by the case in 19 P. R., I think it is only fair that the leave to appeal should only be on condition that defendants shall pay plaintiff's costs of this motion and of the appeal to this Court in any event.

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GARROW, J.A.

NOVEMBER 5TH, 1906.

C.A.—CHAMBERS.

REX v. LAFORGE.

*Appeal to Court of Appeal—Leave to Appeal from Order of Divisional Court Refusing to Quash Conviction—Special Grounds—Municipal By-law.*

Application by defendant for leave to appeal to the Court of Appeal from the order of a Divisional Court (ante 104)