

BRITTON, J.

OCTOBER 24TH, 1907.

CHAMBERS.

LOGAN v. DREW.

*Judgment — Amendment after Entry — Neglect to Provide for Interlocutory Costs Reserved for the Trial Judge—Disposition of Costs.*

Motion by plaintiffs to amend the formal judgment in this action in such a way as to provide for the disposition of the costs of an interlocutory motion heard before FALCONBRIDGE, C.J., and of the appeal from his decision to a Divisional Court.

J. H. Spence, for plaintiffs.

H. D. Gamble, for defendants.

BRITTON, J.:—The motion before the Chief Justice was by the plaintiff W. I. Logan to have an alleged settlement made at Sarnia, at the assizes there in October, 1906, enforced according to the meaning of that settlement put upon it by the plaintiffs.

The defendants opposed the motion, but asserted a settlement according to a construction they put upon it, and asked to have that settlement carried out.

Upon that motion defendants succeeded. The plaintiff W. I. Logan appealed to a Divisional Court: the appeal was allowed to the extent of setting aside the order of the Chief Justice, and the case was sent down for trial, with liberty to all parties to amend, and to set up any alleged settlement as a matter of defence in the action. The Divisional Court further ordered that the costs of the motion and of the appeal should be disposed of by the presiding Judge at the trial of the action. The trial took place before me at Sarnia in the spring of 1907, and I dismissed the action with costs, but counsel omitted to call my attention to the costs of the motion and appeals, reserved for my decision.

Upon hearing the parties, and considering that the plaintiff failed in his motion before the Chief Justice, and that the Divisional Court did not affirm any settlement as contended for by either party, and that the issue as to the settlement