

We think it is the broad principle of justice which should guide the Court in all cases arising under the rule, and that therefore the proper order here should be to permit an extension of the time for giving security, the parties being restored to their original situation by the applicant paying the costs of this application.

H. C. OF A.
1914.
DELPH
SINGH
v.
KARBOWSKY.

Special leave to appeal granted, the plaintiff's solicitor undertaking to pay costs of motion and of reference within fourteen days after taxation. Notice of appeal to be given within seven days and security to be lodged within fourteen days. Plaintiff to pay costs of the application.

Isaacs J.
Rich J.

Solicitor, for the plaintiff, *Albert H. Jones*.

Solicitors, for the defendant, *Laurence & Laurence*.

B. L.

[HIGH COURT OF AUSTRALIA.]

THE COMMISSIONER OF INCOME TAX }
(QUEENSLAND) } APPELLANT ;

AND

THE BANK OF NEW SOUTH WALES . RESPONDENTS.

Practice—Costs—Review of taxation—Counsel's fees—Case called on in one State and transferred by order of Court to another State for argument—Counsel holding other briefs at same sitting in the latter State.

H. C. OF A.
1914.

BRISBANE,
April 30.
Griffith C.J.
IN
CHAMBERS.

Where a case has been called on in one State and transferred to another for argument by order of the Court, and there argued by counsel originally briefed, the Registrar ought, on the taxation of the costs, to allow such sums for counsel's fees as will be reasonable, taking into consideration the distance travelled or the length of time counsel are compelled to be absent from their own State.

Where such counsel are briefed in more than one case to be heard at the same sitting that fact should be taken into consideration.

H. C OF A. 1914.
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 COMMISSIONER OF
 INCOME TAX
 (QD.)
 v.
 BANK OF
 NEW SOUTH
 WALES.
 —

APPLICATION by the respondents for the review of the taxation of the costs, so far as regards the fees allowed to counsel, in the case of *Commissioner of Income Tax (Qd.) v. Bank of New South Wales* (1).

The case was, by the order of the Court, heard in Sydney after having been called on in Brisbane. On the taxation of the respondents' costs the Registrar allowed 35 guineas for leading counsel and 23 guineas for junior counsel, with one refresher.

Feez K.C. and *Macgregor*, in support of the application. The fees asked for were 100 guineas and 70 guineas respectively. The Registrar allowed on the basis of, say, 25 guineas as the fee on the senior counsel's brief for argument in Brisbane, and then he allowed another 10 guineas for going to Sydney. The briefs were delivered in Brisbane. The taxation of the costs in question should be reviewed: See *Western Australian Bank v. Royal Insurance Co.* (2).

Stumm K.C. and *Wassell*, to oppose the application. The extra costs should not be allowed. The case cited by the applicants decides that extra costs should only be allowed when the question in the case is not on a matter of abstract law.

GRIFFITH C.J. I think that an extra fee should be allowed when a case is transferred to another Registry for argument or re-argument—the fee being based upon considerations of what is a reasonable amount to be paid to counsel for travelling and being absent from home for a considerable time. If he is briefed in more than one case to be heard at the same time and place, that fact should also be taken into consideration.

Review directed.

Solicitor, for the appellant, *T. W. McCawley*, Crown Solicitor for Queensland.

Solicitors, for the respondents, *Feez, Ruthning & Baynes*.

N. McG.