

AT OSGOODE HALL

PLAINTIFF FAILS TO RECOVER DAMAGES FOR COLLISION OF SLEIGHS.

Parker & Co. Get Judgment Against Mrs. Smith—Berlin Suspender Co. to Keep Account of Sales, but Injunction Against Them for Infringement Refused.

ANNOUNCEMENTS.

Judges' Chambers will be held on Tuesday, 23rd inst., at 11 a.m.

Peremptory list for First Divisional Court for Tuesday, 23rd inst., at 11 a.m.:—1. Tyrrell v. Verrall; 2. Greenwood v. Robertson, and cross-appeal; 3. Querin v. Graham; 4. Neill v. Brandon; 5. Patterson v. Brantford.

MASTER'S CHAMBERS.

Before J. A. C. Cameron, Master.

Silverthorn v. Breen.—Richardson (Smith & Co.), for defendant, Bank of B.N.A., moved to strike out bank as defendant for misjoinder. J. H. Flett for plaintiff.

Order made striking out bank as defendant, with costs.

Thompson v. Hawes.—G. C. Campbell, for plaintiff, moved for summary judgment. W. H. Cliphsham for defendant. Enlarged to 27th inst.

Green v. Narrol.—H. J. Parkinson, for plaintiffs, obtained order for substitutional service of writ of summons on defendant.

Georgia v. McWhinney.—J. R. Roaf, for plaintiff, moved for summary judgment. F. H. N. Irvine for defendant.

Order made that defendant be at liberty to deliver defence in one week. Plaintiff to be at liberty to reply. Motion for judgment dismissed. Costs in cause.

Gardener v. Westervelt.—J. T. Murdoch, for plaintiff, moved for further and better affidavit on production. H. S. White for defendant. Enlarged to 23rd inst.

JUDGES' CHAMBERS.

Before Middleton, J.

Canada Steamship Lines v. Steel Company of Canada.—R. I. Towers (Sarnia), for plaintiff, moved to strike out defence on ground that it discloses no reasonable answer to plaintiff's claim. G. L. Staunton, K.C., for defendants.

Judgment: The defendant relies solely upon the agreement to postpone as its defence in this action. If the trial Judge should be of opinion that there is no agreement to postpone the payment of the freight bill, such as alleged, then in the ordinary course he will give judgment for amount of plaintiff's claim. The defendant will then be left to assert its cross-claim in an independent action. It cannot be compelled to set up the claim in this action. It fails to set it up as an answer to plaintiff's claim at its peril. It chooses to present the narrower question of the construction of contract of May, 1914, as its sole defence in the action. Upon this it must stand or fall. The other issues are not tendered, and the plaintiff may safely prepare for trial, knowing that he has only this defence to meet. The costs may be in the cause.

Hill v. Toronto Ry. Co.—Fogle (Blackwell & Co.), for defendant, appealed from order of Master in Chambers changing venue from Barrie to Toronto. A. W. Langmuir for defendants.

Judgment: The balance of convenience is admittedly in favor of Toronto. The motion therefore fails, and must be dismissed. Costs to defendant in the cause.

SINGLE COURT.

Before Sutherland, J.

Walsh v. McKinney.—W. R. Smyth, K.C., for plaintiff on motion to continue injunction. T. S. Elmore for defendant. By consent stands until February 24.

Wolcott v. Wolcott.—A. McL. Macdonell, K.C., for plaintiff on motion to continue injunction. W. H. Cliphsham, for defendant, asked enlargement. Enlarged to February 24.

United States Fidelity & Guaranty Co. v. Millar.—S. J. Birnbaum, for plaintiff, obtained judgment for the taking of accounts.

Re McDonnell and Willard.—H. E. Rose, K.C., for executors of McDonnell, moved for appointment of third arbitrator. J. J. Gray for Willard. If the two arbitrators already appointed can agree upon a third within a week they may appoint the third arbitrator. If no agreement by them within a week order will go appointing S. G. Curry, architect, as third arbitrator.

Dominion Suspender Co. v. Berlin Suspender Co.—H. E. Rose, K.C., for plaintiff, moved for injunction. G. M. Clark for defendant. Order made that defendant keep account of sales until trial. Trial to be expedited and case to be placed on trial list without waiting customary three weeks. No injunction meantime.

Parker v. Smith.—W. R. Cavell, for plaintiff, moved for judgment. No one contra. Judgment for plaintiff restraining defendant from, either alone or jointly with or as agent or otherwise for any other person, firm or company, directly or indirectly, entering into competition with or in opposition to the business of plaintiff or others of them within the Province of Ontario for a period of three years from April 23, 1914, with costs.

Re Clarkson and Bastedo.—W. A. Lamport, for Clarkson, liquidator, vendor, moved under V. and P. act for order declaring that registration of said judgment does not constitute a valid objection to the title in question. J. C. M. Macbeth for purchaser.

Judgment: I am of opinion that under the winding-up act the registration of the judgment creates no lien upon the land and does not constitute a valid objection to the title in the circumstances disclosed in the material. As no question of costs is raised, no order as to costs.

Myers v. Teller.—J. M. Godfrey, for plaintiff, moved to recover \$5,500 of plaintiff's moneys claimed to be in hands of defendant as manager of Novelty Import Co., which plaintiff claims to own. L. F. Heyd, K.C., for defendant.

Judgment: The plaintiff is apparently an alien enemy. It is not at all clear that his residence here is for any other than a temporary purpose and to enable him to realize upon his assets and take the money out of the Province. Upon these facts and under the circumstances of the war now existing I do not think it would be expedient or proper for me at this time to make the order asked. If the plaintiffs are in any way apprehensive about the safety of their money an order may be made to pay it into court, pending the final disposition of the action. Motion refused. Costs in the cause.

Re Beatty and Brown.—E. C. Ironside, for vendor, moved for order declaring that objection of purchaser to title on ground that building restrictions had not been complied with had been satisfactorily answered by vendor and does not constitute a valid objection to the title. G. E. Newman for purchaser.

Judgment: Upon the meagre material filed in support of this application I do not think it would be proper to make the order asked. It is impossible to say that the rights of other parties might not be affected thereby. If the parties desire, a reference may be directed to the Master to investigate and deal with the matter. He can ascertain if any parties whose rights might be affected will object. In meantime I decline to make the order asked.

Willis v. Orr.—H. J. Martin, for plaintiff, obtained injunction restraining defendants from taking any further proceedings by distraint or otherwise to recover instalment of principal and interest under chattel mortgage in question and from taking any proceedings for recovery of possession of goods and chattels covered by mortgage and now in possession of plaintiff until March 1 next, with liberty to use further material on return of motion.

TRIAL COURT.

Before Falconbridge, C.J.

McAllister v. Defoe.—E. G. Porter, K.C., for plaintiff. F. E. O'Flynn (Belleville) for defendant. Action to recover possession of lands. Judgment reserved.

APPELLATE DIVISION.

Before Meredith, C.J.O., MacLaren, J.A., Magee, J.A., Hodgins, J.A.

Re Jamieson and the Hydro-electric Power Commission of Ontario.—M. K. Cowan, K.C., for Jamieson, et al., moved for leave to appeal from order of Ontario Railway and Municipal Board of January 20, 1915. W. N. Ferguson, K.C., for the commission. Order giving leave. The appeal to be expedited.

Garalde v. the Grand Trunk Railway Co.—D. L. McCarthy, K.C., for defendants. G. C. Gibbons, K.C., and G. S. Gibbons (London) for plaintiff. Appeal by defendants from judgment of Britton, J., of January 13, 1915. Action to recover \$10,000 damages for death of Walter Joseph Garalde, who was killed by a yard engine of defendant while he was crossing track of defendant on May 2, 1914, alleged to have been caused by negligence of defendant company. At trial judgment was given plaintiff for \$1,500 and costs. Appeal argued. Judgment reserved.

Block v. Moyer.—H. S. White, for plaintiff, H. G. Tucker (Owen Sound), for defendant. Appeal by plaintiff from judgment of Kelly, J., of November 20, 1914. Action to recover damages for injuries received in a collision between plaintiff's and defendant's sleighs, alleged to have been caused by negligence of defendant's servants. At trial action was dismissed with costs. Appeal argued and dismissed with costs.

Christie v. London Electric Railway Co.—D. L. McCarthy, K.C., and W. R. Meredith

(London), for defendants. G. C. Gibbons, K.C., and G. S. Gibbons (London) for plaintiff. Appeal by defendants from judgment of Britton, J., of Jan. 22, 1915. Action to recover \$10,000 damages for death of John Christie, a lineman of defendants, who was killed by falling from pole of defendant company, alleged to have been caused by negligence of defendant company in leaving pole unfit for use and decayed, which caused death of deceased. Appeal argued. Judgment reserved.

A large audience is expected for Mr. Dalton Baker's Song Recital in the Music Hall of the Toronto Conservatory of Music this Tuesday evening at 8.15 o'clock. Mr. Baker sings an exceptionally brilliant list of songs by old and modern British composers on this occasion, emphasizing the fact that many of the most effective songs in the entire repertory of music are by musicians born under the British flag, or, as in Handel's case, by a naturalized composer. Mr. Healey Willan presides at the piano.

Tickets may be purchased at the office of the Conservatory of Music, College street.