

Meredith, C.J., MacMahon, J.]

[Dec. 12, 1902.

MONRO v. TORONTO R.W.CO.

Practice—Stay of reference pending appeal—Rules 826, 827, 829—Ruling of Master in Ordinary—Appeal from—Forum.

A judgment directed the Master in Ordinary to make partition of lands; ordered that the parties should execute and deliver all necessary conveyances, to be settled by the Master, and should give possession to each other in accordance therewith; and direct the Master to ascertain the plaintiff's damages for ouster, mesne profits, and waste. The defendants appealed from the judgment to the Court of Appeal, and gave the security provided for by Rule 826.

Held, that the reference was stayed pending the appeal.

Construction and application of Rules 827, 829.

The ruling of the Master that the reference was not stayed was a ruling upon a question of practice, and therefore came within the exception in s. 75 (2) of the Judicature Act, R.S.O. 1897, c. 51: and an appeal from his ruling lay to a Judge in Court.

J. Bicknell, K.C., for defendants. *W. N. Ferguson*, for plaintiff.

Province of Nova Scotia.

SUPREME COURT.

Chambers, Ritchie, J., and Townshend, J.]

[July 3 and 9, 1902.

REX v. CARTER.

Criminal Code, ss. 207 (j) 208, 784—Inmate of a disorderly house—Penalty in excess of jurisdiction—Material omission.

The defendant was convicted before the stipendiary magistrate of the city of Halifax "for that she the said C. was during the month of May, 1902, unlawfully an inmate of a disorderly house, that is to say a house of ill fame," in the city of Halifax, and was adjudged for her said offence "to forfeit and pay the sum of \$60," and if the said sum were not paid forthwith "to be imprisoned in the city prison of the city of Halifax for the term of five months" unless said sum were sooner paid. An application for the discharge of the prisoner was made in the first instance under R.S.N.S. c. 181, to RITCHIE, J., at Chambers, and being refused was renewed before TOWNSHEND, J.

RITCHIE, J., *held*, that the offence of being an inmate of a house of ill fame was one which the stipendiary magistrate had jurisdiction to try in a summary way (Code I.V., s. 784) and in which he had absolute jurisdiction.