

defendant is not a party. After notice of trial for non-jury sittings given, defendant served jury notice and launched motion to consolidate or stay present action.

F. E. Hodgins, for defendant.

F. A. Anglin, for plaintiff.

BRITTON, J.—Appeal as to striking out jury notice dismissed.

Appeal as to order refusing to stay proceedings allowed, and order made postponing trial of this cause until after the sittings of the High Court of Justice to be holden at Sandwich on the 23rd instant, so as to permit the estate of Margaret Stuart to be represented, and to permit of the defendant herein being made a party in the suit of Stuart against the now plaintiff, as the plaintiff desires.

It seems to me quite clear upon the plaintiff's own shewing that if there is any liability on the part of the defendant in this action to the plaintiff, it is a liability as surety for the late Margaret Stuart in reference to hotel property, which property is in the control of plaintiff, and I think plaintiff cannot be prejudiced by this delay, so that an opportunity may be given to have the accounts of plaintiff investigated, and thus have the liability of defendant, and extent of that liability, determined.

Order as to costs varied and all costs of application to local Judge and of this appeal to be costs in the cause.

Leave to either party to make such further application as to consolidation or adding parties as they may deem necessary.

J. E. O'Connor, Windsor, solicitor for plaintiff.

Davis & Healy, Windsor, solicitors for defendant.