

Mr. Cartwright, }
Official Referee. }

[May 6.]

CROSSLEY v. FERGUSON.

Consolidation of actions under 57 Vict., c. 27, s. 5—Abuse of process—Pendency of criminal proceedings.

Motion by defendants under 57 Vict., c. 27, s. 5, to consolidate these actions, which are brought against several defendants for the same libel, or to stay proceedings until after the determination of the criminal proceedings against the defendants, or to dismiss the actions as an abuse of the process of the Court.

Held, that 57 Vict., c. 27, s. 5, does not apply to private defendants, being intended for the protection of newspapers only, as in the case of *Beaton v. Globe* (unreported).

Held, also, that the motions to consolidate and to dismiss as an abuse of the process of the courts, are premature, no statements of claim having been delivered as had been done in *Beaton v. Globe*, when Mr. Justice Robertson made an order consolidating those actions.

Held, also, that as the criminal proceedings were not under plaintiff's control, the actions could not be stayed on that account.

Motion dismissed, costs in cause to plaintiff.

C. C. Robinson, for plaintiff.

Kyles, W. A. Skeans, and A. B. Armstrong, for defendants.

FALCONBRIDGE, J.]

[May 7.]

RE DIAMOND v. WALDRON.

Division Court—Breach of contract—Place of—Cause of action—Where arising—Mandamus.

Plaintiff, a merchant in Ontario, gave an order in Ontario for goods to the traveller of the defendants, wholesale merchants in Montreal, "Ship via G.T.R. When—1st Sept." The goods were not so shipped and a correspondence ensued, ending in the defendants refusing to supply the goods.

Held, that the breach was the non-shipment via G. T. R. at Montreal and not the subsequent refusal by correspondence, and as the whole cause of action did not arise where the order was given, a mandamus to compel a Division Court Judge to try the action was refused.

W. R. Riddell, for the motion.

Geo. Kerr, contra.

ARMOUR, C.J., FALCONBRIDGE, J., }
STREET, J. }

[May 10.]

PETRIE v. MACHAN.

Division Courts Act, R.S.O., c. 51, s. 148—Appeal—Sum in dispute—Claim exceeding \$100.

Where in a Division Court action the plaintiff claimed \$100 and interest, and the defendant paid \$35 into Court to answer the plaintiff's claim, and judgment was given for plaintiff for that amount, and plaintiff appeals from the order of the order of the Division Court Judge refusing a new trial, and de-