

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

[Feb. 26.]

MARPLES *v.* ROSEBROUGH.

Vacation—Reference—Official referee.

Every legal proceeding which may properly be taken out of vacation may with equal propriety be taken during vacation, unless something to the contrary can be found in some statute or rule of Court.

An official referee may proceed with a reference during vacation.

Shepley, Q.C., for the plaintiff.

W. J. Elliott, for the defendant.

MACLENNAN, J.A.]

[March 2.]

DONNELLY *v.* AMES.

Security for costs—Appeal to Court of Appeal—Special order—Judicature Act, 1895, sec. 77.

Under sec. 77 of the Judicature Act, 1895, security was specially ordered to be given by the plaintiffs in the sum of \$200 on their appeal to the Court of Appeal from the judgment of the trial Judge dismissing their action for the recovery of land of which the defendants and those under whom they claimed had been in undisturbed possession for nearly thirty years, where two of the plaintiffs resided abroad, and the other two, who resided in this province, had no property exigible under execution, and the taxed costs in the Court below were unpaid, and execution therefor had been returned nulla bona.

E. D. Armour, Q.C., for the plaintiffs.

Shepley, Q.C., for the defendants.

SURROGATE COURT.

COUNTY OF YORK.

Re REID.

Two testamentary papers treated as one will—Surrogate Court fees—Trust estate—R.S.O. c. 50, ss. 70, 71.

Testator executed two testamentary papers on same day, the one as to his individual estate, the other as to property held in trust.

Held, that they were to be admitted to probate as making together the last will of the testator.

Held also, that the statute imposing fees of \$1 and 50 cents respectively per \$1,000 did not apply to the trust estate.

[TORONTO, Feb. 28, McDougall, Co. J.]

The Reverend William Reid, D.D., died on the 19th of January, 1896, having, on the 24th of April, 1895, executed two testamentary papers, the one of such estate as he held in his individual capacity, in which his widow and son were named executors. The other in terms related only to such real and personal property as he held as agent and trustee for the Presbyterian Church in Canada, and its various schemes, religious and charitable. His son and two others were named as executors in respect of the trust property, and directed