

Cameron, J.]

[Jan. 30.]

SCHWOB V. MCGLASHAN.

*Venue—Chancery sittings—Transfer—Rule 263
O. J. A.*

Notice of trial had been given for Fall Chancery Sittings at Simcoe.

Defendant obtained a change of venue to London on terms *inter alia*, that the notice of trial given for Simcoe, should stand for London.

The Judge at London refused to take the case, as it belonged to the Common Pleas Division. The action was eventually decided in plaintiff's favour, but on the taxation of his costs, the taxing officer refused to allow him the costs of the abortive attempt at trial. On appeal, Cameron, J., without deciding whether the Master's order transferring the case to the Chancery Division was a proper one, held that the plaintiff was justified in acting upon it; that the costs incurred were caused by the defendant's application to change the venue, and should properly follow the event.

Leonard, for the appeal.

Aylesworth, contra.

Mr. Dalton, Q. C.—Proudfoot, J.]

[Jan. 30.]

SKINNER V. WHITE.

Lunatic plaintiff—Next friend.

The action was brought in the name of one Skinner, by his next friend, alleging that Skinner was of unsound mind, and claiming to set aside a sale of land.

The defendant applied to have proceedings stayed until plaintiff should be declared a lunatic.

An affidavit of the plaintiff, deposing that he was sane, and desired the action to be dismissed, and those of two physicians that he was sane, were filed.

The Master in Chambers ordered a stay of proceedings.

On appeal, PROUDFOOT, J., discharged this order, on the ground that the Master had no jurisdiction to direct an inquisition in lunacy, but that Skinner or defendant might apply to dismiss the action on the ground that the plaintiff was competent to manage his own business.

J. B. O'Brien, for plaintiff.

H. O'Brien, for defendant.

Boyd, C.]

[February 12.]

FERRIS V. FERRIS.

Collusive action—Right to defend—Dower.

The action was brought by Mathew Ferris and his wife against Archibald Ferris to recover nine years arrears under an annuity deed made by the defendant to secure \$120 a year to the plaintiffs during their lives. Janet Ferris, the defendant's wife, joined in the deed to bar her dower. The defendant abandoned his wife and absconded. She brought an action for alimony and now makes application to be admitted to defend this suit on the ground that it is collusively brought for the purpose of defeating her suit for alimony, and to deprive her of dower in the lands.

Held, upholding the order of the Master in Chambers, that the applicant was entitled to be let in to defend.

Fullerton, for the application.

Clement, contra.

Proudfoot, J.]

[February 19.]

GRAND TRUNK RY. CO. V. ONTARIO AND QUEBEC RY.

Appeal—Security—Stay of execution—Ex parte order.

Under R. S. O. cap. 38, sects. 26-27, proceedings can only be stayed upon security being given both for the costs in the Court of Appeal and those in the Court below. Orders to stay execution pending an appeal should not be made *ex parte*. Such orders may be appealed to a Judge in Chamber without first moving before the Master in Chambers to rescind them.

G. T. Blackstock, for the plaintiffs, (appellants).

H. Cassels, contra.

Proudfoot, J.]

[February 19, 1883.]

HAMILTON V. TWEED.

Appeal—Time—Ex parte order.

By an order of reference the questions raised by the pleading were referred to a referee, under sect. 47 O. J. A. The referee made his report, which was dated the 17th January, and filed a day or two afterwards. On the 10th of February the defendants obtained from the Master in Chambers *ex parte*, an order, extending the time for appealing, on an affidavit of the Toronto agent of the defendant's solicitor, that such solicitor had been misled by a postal card of the