

of the farm and business. Upon that application an order was made by Middleton, J. (22nd November, 1915), directing that until the trial or final determination of the action the appellant should remain in complete management of the properties.

The action was tried by Middleton, J., who gave judgment on the 22nd May, 1916, for partition or sale, with a reference to the Master at Welland; and also directed (para. 6) that (subject to any further direction) the Master should not enter upon the inquiry directed by the judgment until the 1st July, 1917—the management of the property in the meantime to continue under the appeal in pursuance of the agreement of the 6th May, 1915. Upon appeal the Court (4th October, 1916) struck out para. 6.

In the Master's office the appellant claimed salary for the month of October, 1915, at \$100 and salary as manager at \$150 a month until the sale of the farm in April, 1917. The Master refused to allow the appellant anything on this claim, being of opinion that the appellant's contract terminated on the 1st November, 1915, and that the services he did render were of no value.

Reading the judgment at the trial with the reasons for the interim order, it appeared that Middleton, J., thought that the appellant was entitled to remain as manager and be paid salary at the rate of \$150 a month up to July, 1917. But the formal order of the 22nd November, 1915, did not contain any declaration as to the appellant's right to remuneration for services to be rendered under that order. If, however, on the proper construction of that order, the appellant was thereby appointed manager in the capacity of a receiver, until the determination of the action by the judgment of the appellate Court on the 4th October, 1916, he would be entitled to remuneration for the services performed as an officer of the Court under its order.

There was nothing in the evidence which justified the conclusion that the defendant neglected his duties.

The order, fairly interpreted, was an order appointing the appellant an officer of the Court and imposing upon him duties and obligations for the non-performance of which he would be responsible to the Court.

The sum of \$1,100 would be a fair sum to allow for the appellant's services from the 22nd November, 1915, to the 4th October, 1916; and he should be allowed \$100 for October, 1915.

But, after the judgment of the appellate Court, the appellant remained in possession for his own protection and without any legal claim to remuneration.

The appeal should, therefore, be allowed, and the report should be varied by allowing the appellant \$1,200 for his services. The appellant's costs of the appeal should be paid by the respondents.