

plaintiffs could seek was a declaratory judgment, and that the cases were not proper ones for granting such relief, I should not have been prepared to disagree with him. But, as he deemed it proper, influenced by the importance of the questions involved and the apparent anxiety of all parties to obtain a decision upon them, to deal with the whole case, and has done so in the most careful, painstaking, and thorough manner in every branch and detail, it seemed to me to be undesirable to dispose of the case otherwise than on a consideration of the merits.

OSLER and GARROW, JJ.A., each gave reasons in writing for the same conclusion.

MACLAREN, J.A., also concurred.

CARTWRIGHT, MASTER.

SEPTEMBER 18TH, 1907.

CHAMBERS.

BERRY v. HALL.

HALL v. BERRY.

*Consolidation of Actions—Cross-actions—Possession of Land
—Specific Performance of Contract—Burden of Proof—
Stay of one Action—Judicature Act, sec. 57, sub-sec. 12.*

Motion by Berry, plaintiff in the first action and defendant in the second, for an order under the Judicature Act, sec. 57, sub-sec. 12. staying the second action and allowing the claim of the plaintiff therein to be set up in the first action, etc.

H. D. Gamble, for Berry.

S. H. Pritchard, for Hall.

THE MASTER:—By the writ of summons in the first action the plaintiff therein asks for possession of a lot in the town of Haileybury. It was issued on 16th May. The statement of claim was delivered on 3rd September, and states that plaintiff is owner of the lot in question, and that