

*Held*, that the action came within s. 77. of the Division Courts Act, R.S.O., c. 51, whereby the splitting of causes of action is forbidden ; and prohibition was granted.

*In re Clark v. Barber*, 26 O. R. 47, followed, but commented on as irreconcilable with such cases as *Dickenson v. Harrison*, 4 Pri. 282, approved in *Attwood v. Taylor*, 1 M. & G. 307.

*J. E. Jones*, for the defendant Kirkland.

*Masten*, for the plaintiff.

MEREDITH, C. J.]

[Jan. 29.

WALTERS *v.* DUGGAN.

*Security for costs—Præcipe order—Motion to set aside—Security for costs of—Rule 1251.*

A plaintiff may move to set aside a præcipe order requiring him to give security for costs, notwithstanding the stay of proceedings imposed thereby, without giving security for costs ; and, where his writ of summons is specially indorsed, he is not compelled to follow the procedure indicated in Rule 1251, which is inapplicable unless he is moving for summary judgment under Rule 739.

*Thibaudeau v. Herbert*, 16 P.R. 420, distinguished.

*R. H. R. Munro*, for the plaintiff.

*W. R. Smyth*, for the defendant.

BOYD, C.]

[Jan. 30.

CAMERON *v.* McLEAN.

MONES *v.* MCCALLUM.

*Receiver—Equitable execution—Administration action—Status of receiver—Parties—Judgment debtor—Addition of—Rule 324 (b.)*

A receiver appointed by way of equitable execution has no greater rights of action than persons for whom he is receiver, and if the judgment creditor can not proceed to administer an estate in order to make available the interest of his judgment debtor as a beneficiary therein, no more can the officer of the Court styled the receiver ; nor can the Court compel the judgment debtor to help his creditor to recover the fruits of an adverse judgment, either by adding him without his consent as a co-plaintiff in an action brought by the receiver for administration—against doing which Rule 324 (b) is conclusive—or by allowing the receiver to bring a new action in the name of the judgment debtor for the same purpose.

*Stuart v. Grough*, 14 O.R. 257, and *McLean v. Allen*, 14 P.R. 290, not followed.

*Allen v. Furness*, 20 A.R. at p. 40 ; *In re Potts*, 10 Mor. B.C. at p. 66 ; and *Flegg v. Prentiss*, (1892) 2 Ch. at p. 430, specially referred to.

*McGuin v. Fretts*, 13 O.R. 703, and *Bank of London v. Wallace*, 13 P.R. 176, distinguished.

*Idington, Q.C.*, for the plaintiff, Cameron.

*E. R. Cameron*, for the defendant, McLean.