

all necessary parties before the Court, but that no order was made; that the parties who have been added as parties defendants by the plaintiff are not necessary parties, and therefore he must pay their costs.

MARCH 15TH, 1902.

DIVISIONAL COURT.

TAYLOR v. DELANEY.

*Appeal—Surrogate Court—Bond—Notice of Appeal.*

The plaintiff gave notice that he intended to appeal from the judgment of a Surrogate Court to the Court of Appeal.

Held, a valid notice.

The bond on appeal recited that the plaintiff desired to appeal to the Court of Appeal.

Held, a valid security. Court of Appeal may be read "proper appellate tribunal."

Re Nichol, 1 O. L. R. 213, not applied.

Motion by plaintiff to quash appeal of defendant Delaney on the ground that the notice of appeal from judgment of Surrogate Court of Essex did not state the Court appealed to; and that the recital in the bond was of an appeal to the Court of Appeal.

J. H. Moss, for plaintiff.

F. A. Anglin, for defendant.

The motion was argued before a Divisional Court.

BRITTON, J.—I agree to dismissing the motion without costs.

STREET, J.—I am clearly of opinion that the sureties would be liable on the bond put in if the respondent succeeded. The bond must be interpreted in view of the law as it stood at the time it was executed. There was at the time the bond was made only one Court to which an appeal could be made, viz., a Divisional Court of the High Court, and that may fairly be taken to have been the "Court of Appeal" mentioned in the bond. We decided on the argument that the notice was sufficient.

FALCONBRIDGE, C.J.—By 58 Vict. ch. 13 (The Law Courts Act, 1895), sec. 45, appeals from the Surrogate Court were transferred from the Court of Appeal to a Divisional