ages, as his sole remedy. In this he acquiesced by going on with the reference.

The present actions are clearly brought to prevent, if possible, the defendant Carley from alienating his property, which would otherwise be liable to satisfy the plaintiff's claim in the original action, if he succeeds in the final stage.

By his own evidence it is plain that the plaintiff is not a creditor of Carley at all—much less is he a judgment creditor. . . [Burdett v. Fader, 2 O. W. R. 942, referred to.] These actions are attempts to reach the same end, but by the way of a new action and lis pendens, instead of by injunction, as there. No such action is maintained (see Holmested & Langdon, p. 80, and cases there cited in last paragraph), and so should be dismissed (see ib. p. 136 and cases cited there and in Burdett v. Fader.) A little consideration will shew that this must be so. For all we can tell, the original action may travel to the Supreme Court (the title to land being in question), and that Court may reverse the Court of Appeal after it has reversed the Divisional Court, which may reverse the trial judgment. This is exactly what did happen in the case of Thompson v. Coulter, 1 O. W. R. 205, and in many earlier cases, such as Beatty v. North-West Transportation Co. If the present actions are maintainable, the defendants, if successful in the Divisional Court, could commence a similar action against Knapp, if he went to the Court of Appeal, to restrain him from alienating or incumbering his lands. Then, are the lands of both litigants to be tied up until the final disposition of this dispute? How could either of these actions go to trial at the Brockville Assizes on 1st March if the Divisional Court has not given judgment by that time? Or if there is an appeal from the report undisposed of? This shews at once that these actions are improper; for speedy trial is of the very essence of the right to issue a lis pendens: see Finnegan v. Keenan, 7 P. R. 385. No case can be found in which a plaintiff has succeeded in restraining a prospective debtor from alienating his assets by an action quia timet such as the present. If Knapp was a judgment creditor, he could issue execution, which would be much more effectual than any lis pendens. If execution is stayed by Con. Rule 827, then he is not a judgment creditor, nor is he as yet a creditor at all, and he cannot therefore avail himself of any of the cases cited in Holmested & Langton on Rule 1015 and following Rules.

The affidavit of the plaintiff is such an admission of the true character of his actions as satisfies the requirements of