firmed by the lapse of a month from its making before such order issed. On appeal,

PROUDFOOT, J., *held*, that the certificate was written the language of G. O. 642—the result of a deliberate determination upon questions of fact, upon questions properly within the Master's cognizance—hence could not be acted on until confirmed. He thought that if this had been a certificate that no accounts at all had been filed it would not have required confirmation.

Appeal dismissed with costs.

Arnoldi, for appeal.

A. Hoskin, Q. C., contra.

Proudfoot, J.] [Oct. 19.

DAYER V. ROBERTSON.

Appeal—Enlargement of time for—Rule 462.

This appeal has been dismissed without costs, (see page 389), and the plaintiff (appellant) now appealed under Rule 462 for an extension of time for appealing.

PROUDFOOT, J.—In the case now before me there is no doubt that the plaintiff intended to appeal from the order of the Official Referee, but by the mistake of his solicitor thought the time was to be reckoned from the entering of the order, and not from the making of the decision (*Gibb* v. *Murphy*, 2 Chy. Cham. R. 132) and every subsequent step has been promptly taken. I think it a case in which the plaintiff should have leave to appeal without intending to lay down any general rule that in every case the mistake of the solicitor will suffice to cure delay. The plaintiff to pay the costs of the motion.

McPhillips, for the motion.

Watson, contra.

Proudfoot, J.] [Oct. 26.

HARVEY V. G. W. R.

Parties—Joinder of defendants in cases of doubt—Rule 94.

The statement of claim set out that the plaintiff loaded some machinery upon a car of the G. T. R. Company, to be carried by that Company over their line to Toronto, to be there transferred to the G. W. R. Company for carriage to Dundas. That the G. T. R. Company received the machinery and for hire and reward undertook to carry it safely, securely, and with due care, etc., to Toronto, and there to deliver it to the G. W. R. Company for the plaintiff, to be carried to Dundas. That the G. W. R. Company received the machinery from the G. T. R. Company, and for hire and reward undertook to carry it safely, etc., to Dundas.

On the arrival of the machinery at Dundas, the plaintiff paid the agent of the G. W. R. Company the freight demanded under protest. as he claimed that more than the amount of freight was due him for injury done to the machinery during transit, through the negligence of one or other of the Companies. Each Company denied its liability, asserting that the injury occurred while the machinery was under the control of the other, or partly under the control of one and partly the other, but did not deny the fact of the injury.

McMichael, Q.C., for the appellant G. W. R.

W. Cassels, for the G. T. R.

Muir, for the plaintiff.

The Master in Chambers refused to strike out the G. W. R. Company as defendants.

On appeal,

PROUDFOOT, J.—The summons shows two contracts to have been entered into, one by the G. T. R. Company, and the other by the G. W. R. Company through the plaintiff would have had cause of action independent of any contract.

Rule 94 of the Judicature Act provides that in any action, whether on contract or otherwise, where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants to the intent that in such action the question as to which, if any, of the defendants is liable, and to what extent, may be determined as between all the parties to the action.

This effects an entire change of the former rule at law, that where persons agreed severally, they could not be joined in an action but must each be sued separately, and the statute must receive a fair and reasonable construction so as to carry out the intention of the Legislature.

Here there is one single subject, the damage caused to the machinery. To entitle the plaintiff to recover, he must indeed prove more than that he must establish that it has been