

Chy. Div'l Court.]

[Jan. 16.]

## CARTON v. BRADBURN.

*Costs—Order of trial judge as to, under Rules 1170, 1172—"Good cause"—Set-off of costs.*

In an action for damages for malicious prosecution and arrest brought in the High Court of Justice and tried by a jury, the plaintiff recovered a verdict of \$50. The trial judge entered judgment for this sum with costs to the plaintiff on the scale of the County Court, and ordered that the defendant should not be allowed to set-off his extra costs occasioned by the action being brought in the High Court. He was of opinion that the plaintiff had reasonable grounds for bringing the action in the High Court; that the conduct of the defendant was wrong; and that the verdict might well have been larger.

*Held*, that there was no "good cause," under Rule 1170, for depriving the defendant of the set-off provided for by Rule 1172.

*McNair v. Boyd*, 14 P.R. 132, followed.

*E. B. Edwards* for the plaintiff.

*Watson, Q.C.*, for the defendant.

Court of Appeal.]

[Jan. 17.]

## ROSS v. EDWARDS.

*Staying proceedings—Vexatious action—Abuse of process of court.*

*Held*, reversing the order of the Queen's Bench Divisional Court, 14 P.R. 523, and restoring that of MACMAHON, J., *ib.*, that this was not a case in which the exceptional power of the court to refuse to allow its process to be abused by a frivolous section could be properly exercised.

*McCarthy, Q.C.*, and *A. Ferguson, Q.C.*, for the plaintiff.

*Robinson, Q.C.*, and *Shepley, Q.C.*, for the defendants.

ROBERTSON, J.]

[Jan. 25.]

## IN RE SLOSSON.

*Insurance moneys—Infant—Foreign trustee—Security—R.S.O., c. 136, s. 12.*

An infant was entitled to share in certain insurance moneys accruing under a policy upon the life of her deceased father. The infant lived with her mother in a foreign state, and the mother had there been appointed by a Surrogate Court guardian of the infant, and had given security to the satisfaction of that court. The mother petitioned the High Court to be appointed trustee under R.S.O., c. 136, s. 12, to receive the infant's share of the insurance moneys without security.

*Held*, that the security given by the petitioner in the foreign court would not attach to her appointment as trustee under the Act, and the court declined to appoint her unless she furnished the necessary security here.

*Re Thin*, 10 P.R. 490, followed.

*Re Andrews*, 11 P.R. 199, not followed.

*E. P. McNeill* for the petitioner.

*W. F. Burton* for the insurance company.