

ing a direction that the case on appeal should not be settled until an appeal to the Supreme Court of Canada from the judgment of the Supreme Court of this Province refusing to set aside the winding-up order was determined, and that the company's solicitors on the company's appeal in the action against C. should act therein only on instructions of the liquidators, or their solicitor.

*Held*, that as there was no error or omission in the order resulting from mistake or inadvertence, the motion should be refused.

*Hazen*, K.C., for application. *Teed*, K.C., contra.

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## Province of Manitoba.

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### KING'S BENCH.

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Richards, J.]

[April 16.]

TAIT v. CANADIAN PACIFIC RY. CO.

*Railways—Negligence—Fire started by sparks from locomotive  
Joinder of plaintiffs having separate causes of action arising out of the same transaction—Evidence of cause of fire.*

Action for damages for loss of hay destroyed by a prairie fire alleged to have been started by sparks from a locomotive running on defendants' railway. It was found to the satisfaction of the trial judge that the fire started during or immediately after the passing of the locomotive and that there was no other possible cause for the starting of the fire.

*Held*, that the proper conclusion to be drawn was that the defendants were liable, notwithstanding that the sparks must have carried the fire a distance of 127 feet and that there was no evidence as to the condition of the smokestack and netting at the time.

A number of plaintiffs were joined in the action, each having a separate claim for losses by the same fire; and, at the trial, defendants' counsel claimed that they could only proceed by separate actions, and that their counsel must elect for which one he would proceed and strike out the other names from his pleadings. The separate claims of the respective plaintiffs plainly ap-