

After the parties had been for more than six months at issue, the defendants applied to strike out the statement of claim as embarrassing.

Held, that the transaction complained of was one that should be investigated in all its parts on the one record, and that no peculiar difficulty would arise in dealing with it as a whole, and then following such details as might be pertinent.

J. H. Moss, for the plaintiffs and the defendants, McDonald and Grenier.

R. McKay, for the defendants, Holbert, Eby and Vance.

W. H. Blake, for the defendants, J. and R. Forbes.

MASTER IN CHAMBERS.]

[OCT. 29.]

PICKEREL RIVER IMPROVEMENT CO. *v.* MOORE.

Discovery—Production of documents—Penalty—Double tolls—R.S.O., ch. 160, sec. 42.

The double tolls imposed by sec. 42 of the Timber Slide Companies Act, R.S.O., ch. 160, for false statements, are imposed by way of punishment, and not as compensation; and therefore an action to recover such double tolls is an action for a penalty, in which discovery of documents will not be enforced.

Biggs, Q.C., for the plaintiffs.

J. Bicknell, for the defendants.

FIFTH DIVISION COURT, COUNTY OF VICTORIA.

BIRMINGHAM *v.* MALONE; NEALON, Garnishee.

Division Courts—Attachment of debts—Rent.

Rent accruing, but not yet payable, can be attached in the Division Courts.

[LINDSAY—DEAN, Co. J.]

The garnishee was tenant to the primary debtor. A gale of rent was due on 15th March last. The garnishee summons was served on 14th March. The question to be decided was as to whether there was any debt due or owing, and therefore garnishable, from the garnishee to the primary debtor at the time of such service.

G. H. Hopkins, for primary creditor.

A. J. Reid, for primary debtor and garnishee.

DEAN, Co. J.—It is well settled that rent so accrued is garnishable in the other courts (see *Massie v. Toronto Printing Company*, 12 P. R. 12; *Patterson v. King*, 31 C. L. J. N. S. 700, and 27 O.R. 56), but there is a notable difference in the wording of the Division Court and the Judicature Acts. By the former (sec. 173) a debt "due or owing" to the debtor may be attached, by the latter (see Rule 935) a debt "owing or accruing" may be attached.

The words of the Apportionment Act are (R.S.O., c. 143, sec. 2): "All rents . . . shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly."

By sec. 3 "the apportioned part of such rent . . . shall be payable or