

this decree the only record relied on in support of the contention that the suits were consolidated was the following declaration of the learned Judge contained in the stenographer's notes of the proceedings, and made on the 26th October, 1893: "All consolidated cases and matters to be hereafter considered together, the official stenographer, to notify all parties of this."

Held, per TUCK, C.J., and LANDRY, J. (VANWART, J., dissenting), that the above, informal as it was, was a sufficient order of consolidation, particularly as no one objected to it, and so many other matters in the same cases had been done by consent of counsel in a similarly informal way.

Appeal dismissed with costs.

Pugsley, Q.C., for appellants. *H. H. McLean*, contra.

Barker, J.
In Equity,

THIRAUDEAU v. SCOTT.

[Dec 10, 1897.]

Security for costs—Plaintiff residing abroad—Third party interested.

The plaintiff, residing at Montreal, obtained a judgment in the Supreme Court of New Brunswick on July 16th, 1897, for \$952.65 against the defendant S., and brought a suit in equity to set aside a bill of sale given by S. to the other defendants a few days previous to the date of the judgment. The defendants, including S., applied for security for costs. For the plaintiff it was argued that the security should not be for the benefit of S. on account of the judgment debt due by him to the plaintiff.

Held, on the authority of *Crozat v. Bragden*, (1894) 2 Q.B. 30, that the security should be for the benefit of S. as well as the other defendants.

A. H. Hanington, Q.C., for application. *H. F. Puddington*, contra.

EXCHEQUER COURT—ADMIRALTY DISTRICT.

McLeod, J.] PALMER v. SHIP "FRED E. SCAMMELL." [Nov. 20, 1897.]

Ship—Action of restraint—Minority owner—Charter party.

The managing owner of a vessel entered into a charter on July 9 to load with lumber from a New Brunswick port for the United Kingdom, and brought the vessel to New Brunswick for that purpose. While loading in pursuance of the charter the vessel was arrested in November in an action of restraint by a minority owner, who, however, had no real interest in the shares, and was under an obligation to transfer them to the beneficial owner upon request. On an application by the managing owner and other co-owners for the release of the vessel:

Held, that the application should be refused, upon the authority of *The Talca*, 5 P.D. 169; distinguishing *The Vindobala*, 13 P. D. 42; and that the plaintiff appearing on the registry to be the owner of shares in his name, the Court would not consider in what character he held them.

A. O. Earle, Q.C., and *A. H. Hanington*, Q.C., for the application.
A. A. Stockton, Q.C., and *C. A. Palmer*, Q.C., contra.