

Re Potts, (1893) 1 Q.B., at p. 662, and *Minter v. Kent, etc., Land Society*, 11 Times L.R. 197, referred to.

And where ex parte orders were made in respect of two parcels of stock which the plaintiff feared might be disposed of if notice were given, and in both cases costs were given to the applicant.

Held, that the disposition of the costs should not be reviewed on motion to continue the receiver.

Moss, Q.C., for the plaintiff.

Langton, Q.C., for the defendant.

OSLER, J.A.]

[July 11.

DAVIDSON v. FRASER.

Appeal bond—Supreme Court of Canada—Condition.

The condition in a bond filed upon an appeal to the Supreme Court of Canada, was to "pay such costs and damages as shall be awarded in case the judgment shall be affirmed."

Held, that this was not in substance the same as the statutory condition to "pay such cost and damages as may be awarded against the appellant by the Supreme Court"; and the italicized words added a condition not required by the Supreme Court Act, and by which the respondents ought not to be hampered.

G. G. Mills, for the plaintiffs.

J. Grayson Smith, for the defendants.

MEREDITH, C.J.]

[Sept. 8.

MOONEY v. JOYCE.

Parties—Causes of action—Joinder—Rule 300.

Two plaintiffs joined in an action a claim by one for \$500 damages for the wrongful interference of the defendants with him in the completion of a building, and for assaulting and arresting his servant and co-plaintiff, and a claim by the other for \$2,000 damages for the same assault and arrest.

Held, that each was a separate and distinct cause of action, and they could not properly be joined, under Rule 300.

Smurthwaite v. Hannay, (1894) A.C. 494, and *Carter v. Rigby*, (1896) 1 Q.B. 113, followed.

Booth v. Briscoe, 2 Q.B.D. 496, distinguished.

L. G. McCarthy, for the plaintiffs.

Aylesworth, Q.C., for the defendants.

FERGUSON, J.]

[September 10.

IN RE TORONTO, HAMILTON AND BUFFALO R. W. CO. AND KERNER.

Railways and railway companies—Legislative authority—Alteration of grade of street—Arbitration and award—Appeal—Dominion Railway Act, 1888, sec. 161, s-s. 2—Damages—"Structural damages"—"Personal inconvenience."

Held, that the railway company, though incorporated by 47 Vict., c. 75 (O.), was, by 54 & 55 Vict., c. 86 (D.), subject to the legislative authority of the Parliament of Canada, and its power to do the work of altering the grade of a