

MEREDITH, C.J.]

[Jan. 28.]

ARNOLD v. TORONTO RAILWAY COMPANY.

*Trial—Stay of—Appeal from order directing new trial.*

The court may, in a proper case, stay the trial of an action pending an appeal from an order directing a new trial, but only under special circumstances.

It is not a ground for a stay that in the event of the appeal being successful the costs of the new trial will be thrown away, and that one party will be in danger of losing such costs, the other not being a person of means; and it is not desirable that the trial should be delayed, to the possible prejudice of a party by the loss of testimony.

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

*J. Bicknell* for the defendants.

ARMOUR, C.J.]

[Jan. 31.]

IN RE SOLICITOR.

*Solicitor—Striking off roll—Client's money—Costs of taxation and motion.*

Ordered, that a solicitor should be struck off the roll unless by a named day he should pay an amount found by the report of a taxing officer to be in his hands, the moneys of a client, together with the costs of the taxation, and of the motion to strike him off the roll.

*Walter Read* for the client.

*Tremear* for the solicitor.

## MANITOBA.

## COURT OF QUEEN'S BENCH.

KILLAM, J.]

[Jan. 25.]

LA BANQUE D'HOUELAGA v. THE MERCHANTS BANK.

*Warehouse receipt—Bank Act, ss. 64, 68, 74, and 75—Substitution of other goods for those mentioned in receipt—Purchase for value without notice.*

This was an action of replevin to recover possession of a quantity of bacon, which had been transferred by one Allan to the plaintiffs on the 1st of May, 1894, by an instrument in the form of Schedule C to the Bank Act to secure a pre-existing debt due by Allan to the plaintiffs. Allan was proved to be a wholesale purchaser and shipper of dead stock within the meaning of s. 74 of the Act.

The defendants claimed the bacon under a similar instrument obtained from Allan on the 27th of March, 1894, covering 40,000 pounds of bacon, which was at that time set apart in his warehouse and ticketed as the property of the Merchants Bank.