

*Held*, that there having been a severance of the reversion, it followed as a consequence that the right of re-entry for condition broken was destroyed.

*Dunlop's Case*, Sm. L.C., 8th ed., pp. 49-50.

There is no enactment in force in this country corresponding with s. 12 of the Imperial Conveyancing and Law of Property Act, 1881, which provides that "Notwithstanding the severance by conveyance . . . of the reversionary estate in any lands comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry and every other condition contained in the lease shall be apportioned, and shall remain annexed to the several parts of the reversionary estate as severed," etc. The law here on the subject is the same as it was in England immediately before the passing of this enactment.

*Moss*, Q.C., and *R. B. Henderson* for the plaintiffs.

*Robinson*, Q.C., *J. K. Kerr*, Q.C., *E. D. Armour*, Q.C., *W. Macdonald*, and *McKay* for the defendants.

### Practice.

FALCONBRIDGE, J.]

[Aug. 2.

DALEY v. BYRNE.

*Pleading—Striking out—Summary application—Demurrer—Seduction—Defence.*

A pleading will not be summarily struck out on the ground that it is demurrable.

*Glass v. Grant*, 12 P.R. 481, followed.

Where the statement of defence in an action for seduction alleged that the cause of action was in another than the plaintiff, but did not allege that that other sought to proceed by action,

*Held*, that, as there was no authority expressly holding this defence to be bad, it should not be struck out, but leave was given to reply and demur.

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

*F. A. Anglin* for the defendant.

ROSE, J.]

[Sept. 10.

ERDMAN v. TOWN OF WALKERTON.

*Parties—Municipal corporations—Relief over—Municipal Act, 55 Vict., c. 42, s. 531, s-s. 5—Defendant—Third party.*

A third party is "a party to the action" within the meaning of s. 531, s-s. 5, of the Municipal Act, 55 Vict., c. 42; and where a defendant municipal corporation, under that enactment, seeks to have another corporation or person added as a party for the purpose of enforcing a remedy over, such person or corporation should be made a third party and not a defendant, unless the plaintiff seeks some relief against such added party; and it is improper to add such party both as a defendant and a third party.

*W. H. Blake* for the plaintiff.

*Aylesworth*, Q.C., for the defendants.

*J. B. Holden* for the third party.

MEREDITH, J.]

[Sept. 21.

BOYD, C.]

[Sept. 26.

SMITH v. HOUSTON.

*Service of warrant—Dispensing with—Rules 3, 467.*

Upon an application in chambers for an order dispensing with service of a warrant and all subsequent proceedings in the master's office upon certain absent defendants, other defendants in the same interest being represented,

*Held*, by MEREDITH, J., that Rule 467 did not apply to the case, and the order should not be made.

Leave being given to renew the application,

*Held*, by BOYD, C., that, in accordance with Rule 3, the practice should be regulated by analogy to Rule 467, and the order should be made.

*D. Armour* for the plaintiff.

*F. W. Harcourt* for the official guardian.

GALT, C.J.]

[Oct. 11.

MENAB v. MACDONNELL.

*Writ of summons—Indorsement of character of parties—Rule 224—Irregularity—Waiver—Statement of claim—Want of conformity—Striking out—Amendment.*

The writ of summons was indorsed only with a claim for damages for negligence and breach