

LENNOX, J., IN CHAMBERS.

JANUARY 15TH, 1920.

TOWNSHIP OF SOUTH GRIMSBY v. COUNTY OF  
LINCOLN AND TOWNSHIP OF NORTH GRIMSBY.

*Stay of Proceedings—Motion for—Same Issues Raised in another Action Pending—Bona Fide Desire of Plaintiffs to Proceed with Action—Important Issues—Ability to Pay Costs—Refusal to Stay Proceedings without Prejudice to Right of Trial Judge to Deal with Action.*

Motion by the defendants for an order staying proceedings in this action until after the final determination of an action in the County Court of the County of Lincoln, brought by the Corporation of the County of Lincoln against the Corporation of the Township of South Grimsby, in which action the Corporation of North Grimsby were brought in as third parties.

A. W. Marquis, for the defendants the Corporation of the County of Lincoln.

G. C. Thomson, for the defendants the Corporation of the Township of North Grimsby.

W. S. MacBrayne, for the plaintiffs, the Corporation of the Township of South Grimsby.

LENNOX, J., in a written judgment, said that in the other action an appeal was pending from the judgment of the County Court, and the hearing of the appeal had been adjourned sine die. The effect of this was, that that action was still pending.

It was not advisable that an order staying proceedings should be made at the present time. The issues which the plaintiffs in this action were litigating, and desired to have fully tried, were not of trifling moment—on the contrary, they were of serious consequence, far-reaching, and involving exemption from or liability for the payment of a large sum of money. If it could be avoided, it was not expedient that a litigant, seeking to maintain or enforce what he in good faith regarded as a right or privilege, should be hampered or hindered in an honest attempt to establish his contention, particularly if able to pay costs in the event of failure.

The learned Judge would have preferred to make an order for the consolidation of the actions, but the parties did not desire that.

The defendants in the action in this Court could, if so advised, set up what they now alleged, by way of answer in their statement of defence, but that was a matter for their consideration.