

MEREDITH, J., referred to *Reg. v. Lloyd*, 19 O.R. 352.

BOYD, C. : We cannot agree to proceed on this case. It must be remitted to the judge to be restated. The judge must find the facts and specify the question of law as to which he is in doubt and reserves for our judgment.

Case remitted to the judge of the County of Peel to be restated.

Practice.

Q.B. Div'l Court.]

ADAMS v. ANNETT.

[Dec. 19, 1894.]

Arrest—Order for—Discharge—Costs—Terms—No action to be brought.

Where the defendant in his notice of motion to set aside an order for his arrest and for his discharge asked for costs, and an order was made in his favour with costs,

Held, that the judge making the order had power to impose the term that the defendant should be restrained from bringing any action.

Review of the English authorities.

Per FALCONBRIDGE, J.: Following *Scane v. Coffey*, 15 P.R. 112, the term should be imposed only where the plaintiff has been frank and open in his application for the order for arrest, and had reasonable grounds for the statements he laid before the judge.

C. J. Holman for the plaintiffs.

Aylesworth, Q.C., for the defendant.

C. P. Div'l Court.]

THOMPSON v. WILLIAMSON.

[Dec. 21, 1894.]

Security for costs—Action against justice of the peace—53 Vict., c. 23—Form of order—Time—Dismissal of action.

An order under 53 Vict., c. 23, for security for costs in an action against a justice of the peace should not limit a time within which security is to be given, nor provide for dismissal of the action in default; the order should be simply "that the plaintiff do give security for the costs of the defendant to be incurred in the action."

Walter Read for the plaintiffs.

C. W. Kerr for the defendant Williamson.

C.P. Div'l. Court.]

WEEGAR v. GRAND TRUNK R.W. CO.

[Dec. 21, 1894.]

Sheriff—Poundage—Allowance in lieu of—Seizure of goods—Withdrawal of man in possession before sale—Execution superseded—Rule 1233—Amount of allowance—Discretion.

A sheriff made a seizure under a *fi. fa.* against the goods of the defendants; but, learning that they were about to appeal, of his own motion, and for the purpose of saving expense to the parties, withdrew his officer in possession