

It was further contended that no sufficient grounds were disclosed to entitle defendants to a stay of execution, that in any event they were not entitled to a stay of execution for the costs of the trial.

Held, following the suggestion of Brett, M.R., in *Barker v. Lavery*, 54 L. J. Q.B. 241, that the fact that a respondent would be unable to repay the amount levied under execution in case the appeal was successful, was a sufficient ground to entitle an appellant to a stay of execution for the amount of the verdict, on giving security for the same, but,

Held, also, following *Merry v. Nickalls*, 8 Chy. 205; *Morgan v. Elford*, 4 Chy. D., p. 388, and *Attorney-General v. Emerson*, 24 Q.B.D. 56, that execution for the costs should not be stayed if the Advocate give his undertaking to repay them in case the appellants eventually succeed in the action.

Held, following *Merry v. Nickalls*, and *Cooper v. Cooper*, 45 L. J. Chy. 667, that the costs of the application should be paid by the defendants to the plaintiff forthwith after taxation.

W. A. Galliher, for the defendants.

C. C. McCaul, Q.C., for the plaintiff.

APPOINTMENT OF QUEEN'S COUNSEL.

As a matter of record we publish the report to Council made by Hon. Oliver Mowat, Minister of Justice, in reference to the wholesale list of the late Government which the Governor-General refused to sanction. This report which has been approved by his Excellency, has also commended itself to the profession as a whole in the various provinces. It reads as follows:

"The undersigned has had under consideration an order in Council dated the 8th July, appointing 173 members of the Bar of Canada Queen's Counsel. These are in addition to 481 appointed since Confederation, of which number 84 were appointed between July, 1867, and November 5th, 1873, and 397 after the 16th of October, 1878. No appointments were made during Mr. Mackenzie's administration. Thus the number appointed previously to the recent order had been enormous, and the addition to it now of 173 more is startling. In England it appears from the law list of 1895 that the total number of Queen's Counsel there at the time of making up the list was only 217, and it appears that the total number appointed for twenty-two years, up to 1895, inclusive, was only 254, while the number of barristers in England exceeds by several times the number in Canada. No commission has yet issued under the recent order, and the undersigned is of opinion that the order should not be acted upon and should be rescinded on account of the excessive number of names, and for additional reasons which he will now mention."

[The report then speaks of the doubt existing as to the respective rights and powers of the Dominion and Provincial Governments as to these appointments, and then states the intention to employ counsel forthwith to argue the case for the Dominion, which was refused by the late Government, and so obtain an authoritative adjudication upon the subject of jurisdiction.]

"The undersigned respectfully submits that no appointment should be