

cation, and that defendant have execution for the costs when so determined. On application to review or discharge the order so made.

*Held*, per MEAGHER, J., RITCHIE, J., concurring, that the power to hear cases reserved from the criminal court, or appeals or other applications in relation to matters pending or determined therein is not an original or inherent jurisdiction, but is statutory, and that there was no appeal to the court in banc from such an order as that in question, nor had the court power to review or discharge it.

*Held*, also, assuming that the criminal term ended on the 8th October, and that the order was not made until the 10th, and that the court had jurisdiction, it being obvious that the delay from the 8th to the 10th was due to the act of the court and not to any neglect on the part of defendant, that the case was a proper one for an order nunc pro tunc, and that the order might be regarded as if made on the day on which it bore date.

GRAHAM, E. J., and HENRY, J., dissented.

*In re Sproule*, 12 S.C. 140 discussed.

Power, for appellant. *J. W. Longley*, Q.C., Attorney General, for respondent.

Full Court.]

[May 15.

ROBINSON v. THE PROVINCIAL EXHIBITION COMMISSION.

*Provincial exhibition—Speed competition—Failure on part of person making entry to comply with requirements—Hack horse—Must be a horse used in ordinary course of business.*

At the Nova Scotia Provincial Exhibition, 1897, prizes were offered for a number of so called "speed contests," including one open to "all licensed hackmen." By the rules entries were required to be made in the name of the bona fide owner for three months previously, and in the event of failure to observe the rule it was provided that no premium would be awarded, or, if awarded, would be withheld. Plaintiff entered a horse of which he had not been the bona fide owner for the required time before making the entry, and which was not a bona fide hack horse, inasmuch as it was not a horse used in the ordinary course of the hack business, although it had been driven several times in cabs and other vehicles.

*Held*, affirming the judgment of the County Court Judge for District No. 1, that plaintiff having entered his horse and allowed it to run subject to the decision of the judges, and having failed to fulfill the conditions upon which defendants agreed to pay the amount of the prize money, could not recover the amount claimed.

*Fullerton*, for appellant. *MacCoy*, Q.C., for respondent.