

Divisional Court.]

[Oct. 5.]

FISKEN v. IFE.

*Partition and sale—Application by tenant for life of whole estate—Reversioner.*

*Held*, that the jurisdiction in partition matters given by R.S.O. c. 104, was not intended to be exercised at the instance of a tenant for life of the whole estate as against any reversioners who object to the sale of the life estate.

*E. D. Armour*, Q.C., for the applicant.

*F. Arnoldi*, Q.C., contra.

Divisional Court.]

[Oct. 6.]

OWEN v. SPRUNG.

*Divisional Courts—Appeal—Filing case—Extension of time—Delay of Clerk—Jurisdiction—58 Vict. c. 13, sec. 47, O.*

Motion to strike out an appeal from a Division Court judgment refusing a new trial.

Through the delay of the Division Court Clerk in furnishing a certified copy of the proceedings, the appellant was not able to file the same within the two weeks provided by 58 Vict., c. 13, s. 47, (4), while the Junior County Court Judge refused to make an order under that section, allowing any other period for so doing.

*Held*, that this Court had no jurisdiction to grant relief; but application could be made to the Senior County Judge.

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

*Hodgins*, contra.

Divisional Court.]

[Oct. 7.]

NEVILLE v. BALLARD.

*Criminal law—Summary trial—Assault causing actual bodily harm—Release from future criminal proceedings—Criminal Code, ss. 262, 799.*

An assault occasioning actual bodily harm within s. 262 of the Criminal Code, 1892, 55-56 Vict., c. 29, is not susceptible of being tried summarily without the consent of the defendant, under part 58 of the Code, but may be brought under part 55 of the Code by the election of the person charged under s. 786 to be tried summarily. In such case, however, a certificate of dismissal or a conviction, only releases the person charged from further criminal proceedings, under s. 799. The release does not extend also to civil proceedings as under ss. 864-866.

*Riddell*, for the defendant.

*Mulvey*, for the plaintiff.