

the defendant and one Chew. This agreement was not in fact limited to the north half of the lot, but covered the timber and trees upon a portion of the south half lying north and west of a diverted highway or "given road." The defendant stood by his sale to Chew, notwithstanding his deed to the plaintiff. The onus was upon the defendant to shew why he should not be bound by his deed. The defendant endeavoured to shew that he and the plaintiff both understood that by the north half of the lot was meant the part north of the "given road," but the learned Judge was of opinion that no case was made for reformation. The defendant in the deed covenanted for quiet possession free from all incumbrances "save as aforesaid," and released all his claims upon the land. After a careful examination of the evidence, the learned Judge found that there had been a breach of the defendant's covenant, declared that the plaintiff was entitled to damages, directed a reference to the Local Master at Barrie to ascertain the amount, and directed that judgment should be entered for the plaintiff for the amount found by the Master with costs of the action and reference. Frank Denton, K.C., and F. W. Denton, for the plaintiff. W. A. Boys, K.C., and D. C. Murchison, for the defendant.

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## CLARKSON v. O'BRIEN—LENNOX, J.—APRIL 28.

*Appeal—Findings of Referee—Evidence.*]—Appeal by the defendants from the report of J. A. McAndrew, an Official Referee, upon a reference to him for trial of the action. The appeal was heard in the Weekly Court, Toronto. LENNOX, J., in a written judgment, said that the appeal involved a very considerable sum of money, and the disposal of it was a matter of serious consequence. He had given it earnest consideration, with the result that he could not say that the conclusions of the learned Referee were wrong. The appeal should, therefore, be dismissed with costs. W. N. Tilley, K.C., and Harcourt Ferguson, for the defendants. R. S. Robertson and G. H. Sedgewick, for the plaintiff.

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CLARKSON v. DAVIES (TWO ACTIONS)—ORDE, J., IN CHAMBERS—  
APRIL 30.

*Stay of Proceedings—Motion to Stay Second of two Actions—Refusal to Stay—Directions as to Trial—Practice.*]—Motion by the defendants Dunn and Crawford to set aside the writ of summons and statement of claim in the second action and to stay