

ALSO PROCESS CO. v. CULLEN—MASTER IN CHAMBERS—OCT. 16.

*Pleading—Statement of Defence—Action for Infringement of Patent for Invention—Attack on Patent Process—Offers of Settlement—Venue.*]—In an action for an alleged infringement by the defendant of the plaintiffs' patent process for bleaching and ageing flour, the plaintiffs moved to strike out paragraphs 10, 11, 12, and 13 of the statement of defence as being embarrassing and irrelevant.—The 10th paragraph alleged that the plaintiffs' "process has been condemned and prohibited by legislative enactments in Minnesota and other States of the American Union, and has been condemned by public health boards in Great Britain and Europe, as being injurious to the health of the persons consuming the flour so bleached or aged and as being a fraud upon the innocent purchasers of the flour so aged or bleached." The Master said that this attack on the character of the plaintiffs' process was fully set out in the 9th paragraph, which was not objected to by the plaintiffs. The 10th paragraph, therefore, at best only indicated evidence in support of the 9th paragraph; and it did not seem possible that the opinions said to have been given by legislatures or health boards would be receivable at the trial of this action. If the allegations in the 9th paragraph were to be pressed at the trial, they must be supported by the testimony of experts and others given there, and tested by cross-examination and weighed in the judicial balance. For this reason, as well as in view of the decision in *Canavan v. Harris*, 8 O.W.R. 325, this paragraph should not be allowed to stand. See too *Blake v. Albion Life Assurance Society*, 35 L.T.R. 269, 45 L.J.C.P. 663, 4 C.P.D. 94.—Paragraphs 11 and 12 alleged certain offers of settlement made by the plaintiffs to the defendant before action. The Master said that these offers (even if admitted) were not relevant to the issues and could not be given in evidence even as to damages.—Paragraph 13 set out that Woodstock should be the place of trial. On a substantive motion (ante 114) effect was given to that contention; and it was now immaterial whether this paragraph was struck out or not. But perhaps it might as well go with the others.—Costs of this motion to the plaintiffs in the cause. R. McKay, K.C., for the plaintiffs. Grayson Smith, for the defendant.

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