

The only question for determination here is whether in such a case as the present the interrogating party has been given all the information to which he is entitled.

Mr. Turnbull, the general manager, knew nothing of the chattel mortgage having been given until after it was executed.

Mr. Watson, the inspector, knows nothing of what took place when the mortgage was made, as he had left Palmerston before signature. He says that Mr. Hobson, their solicitor, and Mr. Campbell would know what was said and done at the time in question.

It appears from plaintiff's affidavit that application was made to be allowed to examine Campbell, but refused by defendants. I therefore think the order should go, with costs to plaintiff in the action.

The following cases in our own Courts seem to justify this disposition of the motion: *Hartnett v. Canada Mutual Aid Assn.*, 12 P. R. 401, at p. 403; *Smith v. Clarke*, ib. 217, at p. 218; *Going v. London Mutual Fire Ins. Co.*, 10 P. R. 642, at p. 643.

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BOYD, C.

NOVEMBER 30TH, 1904.

TRIAL.

McNULTY v. CITY OF NIAGARA FALLS.

*Cemetery—Owner of Plot—Removal of Corpse—Mistake of Caretaker—Right of Action.*

Action against the city corporation for damages for illegal removal of the remains of plaintiff's deceased child from her plot in a cemetery owned by defendants.

BOYD, C.—It may be assumed that the mother who buys a plot in a cemetery, and inters her dead child therein, has a right of action if the remains are improperly removed: *Meagher v. Driscoll*, 99 Mass. 281. Criminal liability exists even though the act be done thoughtlessly or ignorantly, but punishment should be so adjusted as not to impose any serious penalty in such a case: *Rex v. Lyon*, 2 T. R. 733; *Sharpe's Case*, D. & B. C. C. 160. Here the disturbance arose out of the apparently unauthorized proceedings of the