

should stand dismissed. Particulars were served in time, which alleged the wrongful acts to have taken place in 1908 and 1909.

An examination for discovery of the plaintiff is said to have shewn that the date he must have intended to allege was 1907; and a new set of particulars was served on the 20th November, 1912, after the date fixed for serving particulars. No order was procured allowing these particulars *nunc pro tunc*, but the case was set down, and the costs already referred to paid.

At the trial before Leitch, J., at Milton, on the 2nd December, 1912, Mr. Cameron, counsel for the plaintiff, moved to adjourn the hearing. Counsel for the defendant argued that, by reason of the non-compliance with the Master's order, the case was not properly before the Court—that the action was dead. But he said that he was prepared to go on and fight out the action. The plaintiff's counsel then said (answering the objection of his opponent that the plaintiff could not amend his particulars):—

“Of course, he would have a right to amend; there is no doubt about that. I wanted to move to postpone the case, on the ground that we cannot get our witnesses here. Our main witness is undoubtedly the plaintiff's wife, and she is now in the Asylum at Toronto, and we think is of a good mind, and we had her served with a subpoena; and this morning my client obtains this letter from the Asylum authority (reads). We contend she is in good mind; and there are now in the court-room three doctors from the institution. I do not know how they came here. I suppose they are here to shew cause why this woman should not obey the subpoena that was served on her—two doctors from the asylum and Dr. Bruce Smith. Under the circumstances, I do not think we should be forced to go on.”

Mr. Justice Leitch: “Do you think this charge ought to be held over this defendant for any length of time?”

Mr. Cameron: “It is a nasty thing, I admit, holding it over Mr. MacKay; but at the same time this plaintiff has a right to have a trial. It is not his fault that his wife is not here.”

Mr. Justice Leitch: “She may be permanently insane.”

Mr. Cameron: “No, she is not permanently insane. I do not think she is insane to-day. She is just in there on account of drink and of dope—nothing else. There are three doctors here to-day.”

Mr. Justice Leitch: “You want to find out from them if she is insane?”

Mr. Cameron: “Yes; I want to put them in the box and ask if she is insane.”