

although the Judge has power to interfere (by calling them himself), he will only exercise it in extreme cases.

Similar principles apply to the question which has also been made a point of here, whether in a case like this the Crown should have in Court all the witnesses present at the time of the commission of the act, so that the accused may at least have the opportunity of calling them, and of thus "enabling the jury to draw their own conclusions as to the real truth of the matter."

No absolute obligation appears to rest upon the Crown in either respect, and if the Crown declines to place the witness in the box, or has not subpoenaed him, the prisoner must do so or make out a case for the postponement of the trial. If any real prejudice has been caused to the prisoner by the course which was pursued in the present instance, that also must form the subject of an application in another quarter.

We have no power to interfere, and the motion for leave to have a case stated must, therefore, be refused.

MEREDITH, J.A., and ANGLIN, J., each gave reasons in writing for the same conclusion.

MOSS, C.J.O., and GARROW, J.A., agreed in the result.

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CARTWRIGHT, MASTER.

OCTOBER 23RD, 1907.

CHAMBERS.

ARNOLDI v. COCKBURN.

*Evidence—Attempted Examination of Plaintiff in Support of Motion by Defendant for Better Particulars—Refusal to be Sworn—Discovery.*

After the decision of RIDDELL, J., in this case, ante 373, plaintiff on 28th September, 1907, delivered particulars of the statement of claim, covering 13 type-written pages. These were not satisfactory to defendant, who on 7th October, 1907, gave notice of motion for further and better particulars, or for such other order as might seem proper, on grounds stated therein. The notice also stated that in support of this