

MASTER IN CHAMBERS.

JANUARY 10TH, 1913.

## ST. CLAIR v. STAIR.

4 O. W. N. 645.

*Evidence—Cross-examination on Affidavit Filed—Action for Conspiracy to Defame and Libel—Motion for Security for Costs—Lengthy Examination—Scope of Further Examination Refused.*

MASTER-IN-CHAMBERS dismissed a motion for further examination of defendant Rogers on an affidavit made by him in support of a motion for security for costs, where the deponent had already been examined twice at great length, on the ground that the merits of the case could not be tried on an interlocutory motion.

*Swain v. Mail Printing Co.*, 16 P. R. 135, and

*Bennett v. Empire Printing Co.*, 16 P. R. 63, referred to.

In this action for libel afterwards amended so as to charge a conspiracy to defame plaintiff, the defendants Rogers & Jack Canuck Publishing Co.—moved for security for costs, under 9 Edw. VII. (Ont.), ch. 40, sec. 12, on the usual affidavit of the personal defendant, who is also the president of the defendant company. It was admitted that the plaintiff had no means.

The plaintiff proceeded to cross-examine defendant on this affidavit, and had done so at great and very unusual length. On 11th December, defendant was ordered to attend for further examination and answer questions which he had so far refused to answer.

He so attended and now the plaintiff made a similar motion.

W. E. Ranney, K.C., for plaintiff.

McGregor Young, K.C., for defendants.

CARTWRIGHT, K.C., MASTER:—In view of what was said in *Greenhow v. Wesley*, 16 O. W. R. 585, and *Duval v. O'Beirne*, 20 O. W. R. 884, it might have been better to have had a fuller statement of the grounds for the publication complained of.

However, no objection was taken to its sufficiency *prima facie*. It has, however, been attempted to disprove the allegation of good faith by shewing that the moving defendants were acting as the hired agents of their co-defendant Stair, and that the information of detectives and others admittedly received by them did not justify their statements, but rather shewed not merely a want of good faith, but a