

Campbell, could the latter have been rightly struck out as not being a proper party under Thompson v. London County Council and cases following that decision? Has not this point been made clear by . . . Tate v. Natural Gas Co., 18 P. R. 82? That case was followed in Langley v. Law Society of Upper Canada, 3 O. L. R. 245, where (p. 249) Meredith, J., speaks of the plaintiff being in doubt as to the person from whom he is entitled to redress, as being the decisive point for consideration. . . .

I am of opinion that an order should go in the same terms as to costs and otherwise as in Tate v. Natural Gas Co.

In the same case a motion was made for leave to give a jury notice, which was overlooked, as explained by affidavit of plaintiff's solicitor. This should be allowed on the authority of Macrae v. News Printing Co., 16 P. R. 364.

As this will be embodied in the same order as the other relief asked for, it is not necessary to make any separate provision as to the costs.

CARTWRIGHT, MASTER.

JUNE 6TH, 1903.

CHAMBERS.

HASKINS v. MAY.

Evidence—Examination of Witness de Bene Esse—Order for.

Motion by defendant for an order allowing him to examine a witness, one Isabelle Hartwell, de bene esse.

S. H. Bradford, for defendant.

C. A. Moss, for plaintiff.

THE MASTER.—As defendant is willing to furnish plaintiff with a copy of the depositions free of charge, I think the usual order may go for the examination de bene esse of Isabelle Hartwell. Whether or not her evidence will be material must be left for determination at the trial, and cannot be usefully considered now.

The defendant makes out the usual prima facie case, and I am unable to see any ground on which the order can be properly refused.

The costs of the motion will be disposed of by the taxing officer.