

MIDDLETON, J., IN CHAMBERS.

APRIL 6TH, 1915.

CLARKE v. ROBINET.

Discovery—Examination of Parties—Scope of—Limitation to Case Made on Pleadings—Foundation for Amendment.

Motion by the defendants Robinet, Healy, and Page, who counterclaimed against the plaintiff and their co-defendant Parker, for an order compelling the plaintiff and the defendant Parker to attend for re-examination for discovery and to answer questions which they refused to answer upon their examination before the Local Registrar at Sandwich.

A. C. Heighington, for the applicants.

A. W. Langmuir, for the respondents.

MIDDLETON, J.:—There does not seem to me to be any case made out for further examination. The deponents have given full discovery upon the case as now made, and the suggestion that by amendment the action may assume a wider scope does not help. Discovery is in aid of the case as pleaded, and there is no right to seek information for the purpose of founding some other complaint. See *Hennessy v. Wright* (1888), 24 Q.B.D. 445 (note); *Yorkshire Provident Life Assurance Co. v. Gilbert & Rivington*, [1895] 2 Q.B. 148; *Kennedy v. Dodson*, [1895] 1 Ch. 334.

Motion dismissed; costs to the respondents in any event.

MIDDLETON, J.

APRIL 6TH, 1915.

RE MACKAY.

Will—Construction — Annuities — Payment out of Income or Capital—Accumulated Surplus Income—Priorities.

Motion by the executors of R. O. Mackay, deceased, for an order determining certain questions arising in the administration of the estate as to the proper construction of the will.

D'Arcy Martin, K.C., for the executors.

M. H. Ludwig, K.C., for the widow.

J. T. Richardson, for Eugénie Turner.

F. W. Harcourt, K.C., for the infants.