

The plaintiff, in person.

W. A. McMaster, for Anderson.

MIDDLETON, J.:—I think the judgment is correct, and ought to be affirmed. Mr. Anderson relies upon the Statute of Limitations. It appears to me that there is much to be said in favour of its application. Mr. Broom says that, with much research, he has been unable to find any case like this, and that he thinks the statute has no application. I do not think that this question should be determined upon an interlocutory application; and that there is sufficient reason for refusing the application when it appears that there is a substantial question as to the application of the Statute of Limitations which might be affected by the order.

It would be quite possible to protect Mr. Anderson as to this, by imposing a term that the action, as far as he is concerned, is not to be deemed to have been begun until the date of his addition as a party. But I do not think it is fair to add a party where the action has been pending so long and there have been so many interlocutory proceedings.

I find it impossible to understand the supposed cause of action; but it is clear that it differs altogether from the cause of action alleged against the other defendants, and that to add Anderson now would result in an improper joinder of parties.

Appeal dismissed with costs.

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MIDDLETON, J., IN CHAMBERS.

MAY 7TH, 1912.

HAWES GIBSON & CO. v. HAWES.

*Evidence—Foreign Commission—Doubt as to Necessity for Evidence—Terms—Security for Costs—Alternative Order.*

Appeal by the defendant from the order of the Master in Chambers, ante 1078.

F. R. MacKelcan, for the defendant.

H. D. Gamble, K.C., for the plaintiffs.

MIDDLETON, J.:—An application was made for a commission in this case before, and it was refused by a Divisional Court (ante 312), the majority of the Judges thinking that it had not been shewn to be necessary for the purposes of the record as it