

cause, and not by the defendant, since, if a party to an action is too ill to attend before a commissioner to make an affidavit, the proper person to make it is the solicitor (*m*), yet the proper course (*n*) is for the party himself, if he be in the province (*nn*), to pledge his oath to a statement respecting witnesses; and that duty may not be delegated to such a confidential agent as a book-keeper; whose affidavit, filed as a substitute for a plaintiff's, and stating that the maker had "a full knowledge of the matters in question in this action," was quite recently rejected (*o*) by the Master in Chambers. Needless to say, this does not apply to corporations.

Further, it is preferable that the party to the action should speak of his own knowledge. Mr. Cartwright, sitting for the Master in Chambers, adversely commented on the fact that "the defendant does not appear to have spoken of his own knowledge, but to have relied on the statements given by his solicitors as to what witnesses would be material and what they could prove" (*p*).

If a party does not speak of his own knowledge, he must state the source of his information and belief. Following *In re F. L. Young Manufacturing Co.* (1900) 2 Ch. 753, the Master in Chambers declined (*q*) to admit as evidence on a motion for change of venue the affidavit of a defendant company's manager that "I am advised and believe the defendants cannot successfully proceed to the trial of this action without a physical examination of the plaintiff" . . .

When, on the pending appeal to the Court of Appeal in *Morrison v. G.T.R. Co.*, it was urged by counsel that the decision in *In re Young* applied only to proceedings that were final, and not merely interlocutory in their nature, Osler, J.A., stated (*r*) it to be a standing rule that an affidavit shall disclose the source of information and belief.

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(*m*) *Williams v. Higgs*, 6 M. & W. 133; 8 D.P.C. 165; 9 L.J. Ex. 59; 4 Jur. 73.

(*n*) *DeLahey v. McDonald*. Judgment dated May 27, 1902 (unreported).

(*nn*) *Hood v. Cronkrite*, 4 P.R., at p. 278.

(*o*) *DeLahey v. Macdonald*.

(*p*) *Mason v. Van Alstine*, judgment dated June 10, 1897 (unreported).

(*q*) *Witty v. London Street R.W. Co.* Judgment dated March 4, 1901 (unreported).

(*r*) Appeal argued May 16, 1902.