

THE MASTER:—This action was begun just a year ago, but has not yet come to trial. Plaintiff asks damages and other relief in respect of the alleged wrongful construction of a bridge, whereby his land has been overflowed.

It is admitted that plaintiff intends to give notice of trial for the non-jury sittings at Walkerton on 18th June. Defendants move to postpone the trial until the autumn.

The motion is based on the fact that the engineer on whose plans and under whose directions the bridge in question was built has been appointed by the Dominion government to do surveying in the province of Saskatchewan. He says that he expects to leave at once and to be absent until the autumn.

This does not seem to be sufficient ground for postponement against the wish of the plaintiff.

The case is at issue, and discovery has been had, so that the contentions of plaintiff are well defined. It will be open to defendants to take the engineer's evidence before he leaves, or else later on by commission, and an order can go at any time for such examination.

The fact that the witness is going to do work for the Dominion government would not seem to be any more reason for granting the motion than if he was going away to do work for any one else. To postpone trials for the convenience of witnesses would be to introduce a new and dangerous practice.

The motion is dismissed without prejudice to any application that may be made at the trial. Costs in cause to plaintiff.

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CARTWRIGHT, MASTER.

MAY 7TH, 1906.

CHAMBERS.

LEFURGEY v. GREAT WEST LAND CO.

*Discovery—Examination of Defendant Resident out of Ontario—Rule 477—Proposed Examination in Ontario—Compelling Attendance.*

Motion by plaintiffs for an order under Rule 477 requiring a defendant who resides at Cookshire, in the province of Quebec, to attend at Toronto and be examined for discovery.

G. B. Strathy, for plaintiffs.

J. E. Jones, for defendants.