

Province of Manitoba.

QUEEN'S BENCH.

Bain, J.]

CARTER v. RODGERS.

[Nov. 20.

Practice—Evidence—Commission to examine witnesses abroad.

Appeal from the decision of the Referee refusing to order the issue of a commission to Montreal to take the evidence of a witness for the plaintiffs for use at the trial. The usual affidavit had been filed in support of the application.

Held, reversing the decision of the Referee, that the commission should be issued, and that the facts that the witness sold the plaintiffs' goods on commission and acted as their agent in the transaction out of which this action arose, were not sufficient special reasons for refusing the commission, as there was nothing in the nature of the evidence expected from him that would make it unjust or unfair to the defendants to allow it to be taken under a commission.

Mulock, Q.C., for plaintiffs. *Howell*, Q.C., for defendants.

RULES OF COURT—ONTARIO.

Regulation for preventing causes being entered for trial, or hearing, before the same are in a fit state to be tried, or heard.

WHEREAS it is necessary for the due administration of justice, and avoidance of delays and unnecessary expense, that records entered for trial should show the state of the action against all the defendants, including those who have not appeared, or as against whom the pleadings have been noted closed, or any interlocutory, or final, judgment has been signed:—

THEREFORE, from and after January 1st next (1900), all officers passing records are hereby directed, and required, to see that they contain, in addition to a certified copy of the pleadings, a note or memorandum stating the state of the action as against every defendant or defendants who has, or have, put in no defence, or as against whom the action has been discontinued. No extra charge is to be made for such note or memorandum. All officers and clerks when entering causes for trial, or for hearing on motion for judgment, are required to see that the same are in a proper state for trial, or hearing, and are not otherwise to enter the same; and for that purpose may require either the production of the Record, or a certificate of the state of the action, when the necessary information cannot be obtained from their own books of office.

(Signed) J. A. BOYD, C. and P.

“ J. D. ARMOUR, C.J.Q.B.

“ W. R. MEREDITH, C.J.C.P.

October 28th, 1899.