ex parte. They will at once suggest themselves. To guard against these it has never been the practice, either under the Rule in question or the analogous Rules 485 and 499, to make the order ex parte. Even where the examination is de bene esse, some ground of urgency is necessary to dispense with notice: see Baker v. Jackson, 10 P. R. 624, and Holmested & Langton, 3rd ed., pp. 708, 709. See too Rule 357, as to when orders may be made ex parte.

The order must be set aside. But, as the motion might have been made sooner, and as plaintiff's solicitor seems to have acted only with a view to save expense and possible inconvenience to defendants, the costs may be in the cause.

I would suggest that defendants might agree to an order being made now allowing the examination to be had in the same way as directed by the order in question, if on inquiry they are satisfied that they will not be prejudiced thereby.

I have no material which would enable me to make an order now as on a substantive application. As the case is set down for trial next week, this motion may throw it over in any case. However much to be regretted, this is not the fault of defendants.

Since the argument the copy of the order, with appointment indorsed, has been left with me. From this it appears that the examination could not have taken place, as the hour for the same is left blank.

Plaintiff appealed to a Judge in Chambers.

The same counsel appeared.

MEREDITH, C.J., dismissed the appeal with costs to defendants in any event.

MACMAHON, J. DECEMBER 10TH, 1906.

TRIAL.

PATTERSON v. DART.

Limitation of Actions — Conveyance of Land — Security — Agreement—Default—Redemption—Sale by Public Auction —Possession.

Action for redemption, etc.

W. Mills, Ridgetown, for plaintiff.