

CARTER V. FOLEY-O'BRIEN CO.—MASTER IN CHAMBERS—FEB. 15.

Evidence—Foreign Commission—Examination of a Defendant on Behalf of Plaintiffs—Security for Costs of Commission.]
—Motion by the plaintiffs in the above action and two other actions against the same defendants for a commission to examine, as a witness on their behalf, the defendant Geddes at Reno, Nevada, or elsewhere as he might be found. The Master said that he had read the examination of the defendant Geddes for discovery, and, in the light of the statement of claim, his evidence was material. He had agreed to come to the trial, and the plaintiffs were willing “to pay his expenses and a reasonable fee for his time”—the best possible proof of their good faith and desire to save delay and expense. After the trial had been fixed for the 20th January, he notified his solicitor that he would not come. In this state of affairs, it seemed proper to make the order asked for, unless his examination for discovery should be allowed to be taken as his evidence at the trial. The Master had some doubt at the argument as to whether he should accede to the defendants’ request for security. Further reflection, however, had satisfied him that this should not be granted, as the plaintiffs did everything in their power to procure the defendant Geddes’s presence at the trial, which he would naturally be expected to attend at his own expense. Usual order granted. H. S. Murton, for the plaintiffs. H. Macdonald (Day, Ferguson, & O’Sullivan), for the defendant Foley. R. W. Hart, for the other defendants.