

by refusing it, so far as the plaintiffs' evidence was concerned. With regard to Smith, the commission might issue, as proposed, to take his evidence. Coyne (Watson & Co.), for the plaintiffs. W. G. Thurston, K.C., for the defendants.

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BIANCO V. McMILLAN—LENNOX, J., IN CHAMBERS—OCT. 31.

*Dismissal of Action—Default of Plaintiff—Security for Costs—Order Dismissing—Appeal—Relief from Order as Indulgence—Terms.*]—Motion by the plaintiff by way of appeal from or to set aside an order made by George M. LEE, one of the Registrars, sitting for the Master in Chambers, dismissing the action for the plaintiff's default in giving security for costs. LENNOX, J., said that he could see no ground for the plaintiff's application, treated as an appeal from the order of the Registrar in Chambers. The order dismissing the action was properly made. But the plaintiff was a poor man, and, whether he had a cause of action or not, appeared to be acting in good faith; and a Judge had jurisdiction to grant him what he asked as a matter of indulgence. Order that, upon payment of the costs of the defendant of and incidental to the order dismissing the action and the defendant's costs of this application, and giving the security ordered in this action, the plaintiff is to be at liberty to proceed with the action. J. J. Gray, for the plaintiff. A. G. Ross, for the defendant.