Rule 1199 for a præcipe order; and (3) that, inasmuch as the infant was within the jurisdiction, security for costs could not be ordered.

THE MASTER.—To the first objection I do not attach much weight. It was admitted on the argument that defendants' solicitors had accepted service and undertaken to appear. It was not disputed that they had appeared. If necessary defendants should have leave to file an affidavit proving this fact.

As to the second objection, I think this is not entitled to prevail. It is clear from the case of McConnell v. Wakeford, 13 P. R. 455, that an order could not be made on præcipe—"it would have been void." There could therefore be no object in making such an application.

The remaining ground of objection is more substantial. The facts of the present case are distinct from those in Topping v. Everest, 2 O. W. R. 744, and McBain v. Waterloo Manufacturing Co., 4 O. W. R. 147.

But it does not seem that the fact of the infant plaintiff being within the jurisdiction has any bearing in the point under consideration.

I am therefore bound by those previous decisions, unless the case of Smith v. Silverthorne, 15 P. R. 197, following D'Hormusgee v. Grey, 10 Q. B. D. 13, applies, as was contended by Mr. Kerr.

It seems, however, to be clearly distinguishable. Here there are two distinct actions being brought against defendants. This can now be done under Rule 185 in its present form, but there are none the less two separate actions.

The present motion will therefore be dealt with as was done in Topping v. Everest, supra.

Plaintiff can have such time as he may require (not exceeding six weeks) to give security.

In default the claim of the father will be struck out, and the matter will then be left for further consideration, or the order may be as in McBain v. Waterloo Manufacturing Co., whichever is approved by the parties. The costs of this motion will be in the cause, as the exact point now arises for the first time.