

MEREDITH, C.J.C.P.

JANUARY 15TH, 1915.

DYET v. TRUESDALE.

Judgment—Reference—Order for Payment in Accordance with Referee's Finding — Practice — Necessity for Motion for Judgment on Report—Judicature Act, secs. 64, 65—Rule 772—Form 75.

Motion by the plaintiff for judgment on the report of a referee.

The motion was heard in the Weekly Court at Toronto.

W. S. MacBrayne, for the plaintiff.

No one appeared for the defendant.

MEREDITH, C.J.C.P.:—According to the now prevailing practice, the local officer should give effect to the "judgment" and "report" in this case; any further judgment or order is unnecessary.

The judgment made at the trial orders payment in accordance with the referee's finding, forthwith after confirmation of his report.

In substance nothing more could be done now; in form more apt words might be used, but they are not essential.

The Legislature of this Province, in enacting the provisions of the Judicature Act, R.S.O. 1914 ch. 56, secs. 64 and 65, upon the subject, plainly departed from the practice in England, which requires that "every referee to whom a cause or matter shall be referred for trial shall direct how judgment shall be entered," and that "such judgment shall be entered accordingly by a Master or Registrar as the case may be;" and, it may be, contemplates a hearing on further directions in all cases of reference; but it made no provision, expressed or by implication, to that effect; and so, to obviate the delay and cost of such a motion, the practice of giving final judgment by anticipation, in the order of reference, has grown up, and is now commonly followed; and no appeal, as far as I am aware, has ever been taken to raise any question of the power to make any such judgment; and I am unaware of any incompetency in the Courts to make it; though the form in which it is sometimes made is plainly capable of improvement.