

THE MASTER held that there could be no difficulty, the plaintiffs being willing to set the case down at the foot of the list, so that it would not be called on the first day. It was desirable that the action should be tried this year, while the defendants were still members of the council. Order made changing venue to Woodstock. Costs to defendants in the cause.

WINCHESTER, MASTER.

DECEMBER 5TH, 1902.

CHAMBERS.

PLUMMER v. SHOLDICE.

*Parties—Addition of Plaintiff—Distinct Causes of Action—Election to Proceed with One.*

Motion by defendant to set aside the statement of claim, or that plaintiffs be ordered to elect as to which claim will be proceeded with. The action was originally begun by plaintiff Plummer alone, and was brought to compel specific performance of an agreement between him and defendant for the sale and purchase of 50 acres of land near the town of Sault Ste. Marie. Before serving the writ of summons, although defendant had entered an appearance gratis, the plaintiff obtained from the local Judge at Sault Ste. Marie an ex parte order permitting plaintiff to amend by adding Marie Brown as a plaintiff, and by adding to the indorsement of the writ a claim for the specific performance of an agreement made between her and the defendant in respect to the same land, and a claim for partition or sale. The writ was amended pursuant to the order, and a statement of claim was delivered, which was afterwards amended.

H. L. Dunn, for defendant.

D. L. McCarthy, for plaintiffs.

THE MASTER.—Each plaintiff has a distinct cause of action against the defendant, and this is improper under Rule 185. *Mooney v. Joyce*, 17 P. R. 241, applied, notwithstanding the change in the Rule. The adding of Marie Brown with her new cause of action will embarrass the trial of the action originally instituted. If plaintiff Plummer is desirous of proceeding with the action as originally brought, there can be no objection to his retaining Marie Brown as co-plaintiff. Order made (as in *Mooney v. Joyce*) that plaintiffs do elect within two weeks which plaintiff's claim will be proceeded with in this action, and do within the same period amend the writ and statement of claim by striking out all parts that refer to the claim of the other plaintiff, save as dealt with above, and that in default the action be dismissed. Costs to defendant in any event.