

discovery of non-resident officers of litigating corporations be accidental or designed, I am unable to read into this "code of procedure" something which it certainly does not contain. Its inability to secure obedience to any order such as that which plaintiffs seek, by any sanction which the Court has power to enforce, is a sufficient reason for the belief that this *casus omissus* is such of deliberate purpose on the part of the framers of our Consolidated Rules. No "practice hitherto always followed" is "a sufficient warrant" for making an order which the Rules do not authorize: *Appleby v. Turner*, 19 P. R. 175, 177.

Appeal allowed with costs to defendants in any event.

ANGLIN, J.

NOVEMBER 1ST, 1904.

WEEKLY COURT.

FRASER v. MUTCHMOR.

Mortgage—House upon Adjoining Lot Projecting upon Mortgaged Land — Reformation — Construction — General Words—Short Forms Act—Description—Plan—Title—Registry Laws—Appeal—Costs.

Appeal by defendant Mansfield from report of local Master at Ottawa.

J. Kidd, Ottawa, for appellant.

H. A. Burbidge, Ottawa, for plaintiff.

T. A. Beament, Ottawa, for defendants A. P. and Ida Mutchmor.

ANGLIN, J.—Plaintiff is mortgagee of lot 4. Defendant Mansfield owns lot 3 adjoining. A building erected upon lot 3 extends over a small triangular piece of land which is part of lot 4. Plaintiff brings the present action for foreclosure, upon his mortgage, joining as defendants the mortgagor, A. P. Mutchmor, his wife Ida, and also Mansfield, whose only remaining interest is in respect of the projecting angle of his house. . . . Defendants the Mutchmors not having appeared, a *præcipe* judgment was entered against them. Defendant Mansfield defending in respect of the part of lot 4 covered by the north-western angle of his house, the action came down for trial to determine the title to this small triangular piece of property. By consent an order was pronounced referring the action for trial to the local Master at Ottawa. From his report, finding that defendant