

In brief, plaintiff is not an inhabitant of the city, his premises are in the county of York, and he can only deal as a stranger with the city for water supply under the section already referred to. Defendants are not bound to deal with him, are not under obligation to supply water to him, and the Courts in such cases do not interfere: *Weale v. Weale*, 1 J. & W. 358, followed in *Wren's Case* by Jessel, M.R., of which a note is made in *Michael & Will's Law Relating to Gas and Water*, 5th ed., p. 313. See also *Cooke v. Newton*, 38 Ch. D. 56, 14 App. Cas. 698.

Action dismissed with costs.

TEETZEL, J.

DECEMBER 8TH, 1904.

CHAMBERS.

SAUNDERSON v. JOHNSTON.

*Trial—Setting down—Close of Pleadings—Rights of Defendant—Injunction Motion—Terms of Order.*

Appeal by defendant from order of Master in Chambers setting aside defendant's setting down of the action for trial at the Toronto non-jury sittings, and the notice of setting down.

The action was for an injunction, and on 31st October MAGEE, J., heard a motion by plaintiff for an interim injunction and adjourned it till the trial, directing plaintiff to deliver his statement of claim on 14th November and set the action down for trial at the Toronto sittings within two weeks after the close of the pleadings, and that, in default of plaintiff so pleading and setting down, the motion should be dismissed.

The statement of claim was filed within the time limited, and on 16th November defendant joined issue thereon, and, treating the pleadings as closed, under the authority of *Malcolm v. Race*, 16 P. R. 330, and *Hare v. Cawthrope*, 11 P. R. 353, set the case down and gave notice thereof, under Rule 542, which provides for either party setting the action down for trial immediately after the close of the pleadings.

W. N. Tilley, for defendant.

H. M. Mowat, K.C., for plaintiff.

TEETZEL, J.—With great deference to the learned Master, I cannot read the order of Magee, J., as imposing any qualification upon or limiting defendant's right under Rule 542. I think, therefore, defendant was entitled to set the case down, and that the appeal should be allowed with costs to defendant in any event.