

Divisional Court.] *McLURE v. TOWNSHIP OF BROOKE*. [Dec. 24, 1902.  
*BRYCE v. TOWNSHIP OF BROOKE*.

*Drainage referee—Official referee—Reference—Statutes.*

The drainage referee is not an official referee, and an action cannot be referred to him for trial unless he is agreed upon by the parties as a special referee.

Provisions of the Judicature, Arbitration and Drainage Acts, discussed.  
 Decision of a Divisional Court, 4 O.L.R. 97, reversed.

*J. H. Moss*, for appellants. *Watson*, K.C., and *N. Sinclair*, for respondents.

Meredith, C.J.] ANTHONY T. BLAIN. [Dec. 29, 1902.

*Pleading—Amended statement of claim—Delivery of—Irregularity—Time—Validating order—Terms—Costs—Stay of proceedings—Appeal—Waiver—Compliance with terms.*

After the delivery of the statement of claim an order for particulars was made, and the time for delivering the defence was extended until the expiry of six days after the delivery of the particulars. Before this period had elapsed, and before any statement of defence had been delivered, and more than four weeks after the appearance, the plaintiff, without leave and without the defendant's consent, delivered an amended statement of claim.

*Held*, that the delivery of the amended statement of claim was irregular under Rule 300.

An order was made, upon the defendant's application to set aside the amended statement for irregularity, validating the delivery of it, but directing that the plaintiff should pay the costs of the motion and other costs occasioned by the irregularity, and that until payment of such costs further proceedings on the charges introduced by the amendment should be stayed, or if such costs should not be paid within one month after taxation that the amendment should be struck out.

Mere compliance with the terms of an order, by the party to whom an indulgence or relief is granted on terms, does not preclude him from moving against the order.

*Arday v. Practorious*, 20 Q.B.D., 764, *Hewson v. Macdonald*, 32 C.P. 407, and *Duffy v. Donovan*, 14 P.R. 159, followed.

*Middleton*, for plaintiff. *Riddell*, K.C., for defendant.

Britton, J.] GROSSMAN v. CANADA CYCLE CO. [Dec. 29, 1902.

*Copyright—Infringement—Newspaper—"First publication."*

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