

MIDDLETON, J., in a written judgment, said that since the argument his attention had been drawn to the case of *Rex v. Sinclair* (1916), 38 O.L.R. 149, which appeared to determine that the only remedy open to the accused who is tried summarily under sec. 777 of the Criminal Code, where the magistrate errs in law, is to obtain a stated case under sec. 1013 et seq. of the Code, and that a motion to quash the conviction will not lie.

If counsel for the accused does not agree with this view of that decision or can distinguish it, the learned Judge will be glad to receive any written argument he may desire to submit, before the case is finally disposed of.

MIDDLETON, J., IN CHAMBERS.

SEPTEMBER 24TH, 1917.

DOMINION SUGAR CO. v. NEWMAN.

*Libel—Pleading—Statement of Claim—Irrelevant Matter—Striking out—Delivery of Statement of Defence—Solicitor's Slip—Relief from—Costs.*

Appeal by the defendant from an order of the Master in Chambers refusing to strike out two paragraphs of the statement of claim.

I. F. Hellmuth, K.C., for the defendant.

E. D. Armour, K.C., for the plaintiff company.

MIDDLETON, J., in a written judgment, said that the plaintiff company manufactured and sold sugar. The defendant was a grocer dealing in sugar, selling in the course of his trade sugar manufactured by the Redpath company. An analysis was made of the plaintiff company's sugar by the Government analyst; the result was not shewn by the papers, but apparently some colouring matter was found in a sugar otherwise of high purity.

The defendant, it was said, caused an article to be published in a local paper which referred to, but did not quote, the Government report, which, it was said, falsely and maliciously represented the plaintiff company's sugar as adulterated and as injurious to health, and so damnified the plaintiff company in its business.

Paragraph 5, which was objected to, set out in extenso a letter from the Redpath company repudiating any connection with the publication complained of. This letter was published in the same paper. Paragraph 12, also complained of, after setting out that