

of how the acts of the defendants in changing the grade of Bloor street, as alleged in paragraph 4 of the plaintiff's statement of claim, were done "wrongfully" as therein alleged. SUTHERLAND, J., said that, if the word "wrongfully" in para. 4 of the statement of claim meant "without legal right or authority," then, as the action taken by the defendants and the ground therefor was within their knowledge, this was a case in which particulars ought not to be ordered: Holmested's Judicature Act, 5th ed., p. 581, and cases cited. The defendants did not need particulars in order to enable them to plead, nor could they be in any way prejudiced by not obtaining particulars. The plaintiff might well be unable to give any, at all events until after an examination for discovery. The order should be set aside. See *Smith v. Reid* (1909), 17 O.L.R. 265; *Townsend v. Northern Crown Bank* (1910), 1 O.W.N. 69, 19 O.L.R. 489; *Mulvenna v. Canadian Pacific R.W. Co.* (1914), 5 O.W.N. 779. Costs in the cause to the plaintiff.

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REX v. BAUGH—SUTHERLAND, J., IN CHAMBERS—MAY 16.

*Criminal Law—Application for Removal of Indictment from Sessions to Assizes—Postponement of Trial—Effect of.*—Motion by the accused to remove a certain indictment against the defendant from the Court of General Sessions of the Peace for the County of York to the next sittings of the Court of Assize (Oyer and Terminer) at Toronto. The grounds alleged in the notice of motion were, possible bias and prejudice on the part of the Senior County Court Judge, and the inability of senior counsel to be present owing to other important engagements. In the affidavit of the accused he also suggested, in an indefinite sort of way, that there were certain witnesses whom he was endeavouring to find, but did not expect to be able to do so for some little time. A similar application was made to the Senior County Court Judge, and refused. The trial of the accused was fixed for the 18th May. SUTHERLAND, J., said that it appeared more than probable that a delay of the hearing until the autumn might make it difficult, if not impossible, for the Crown to secure witnesses now available. Even if the learned Judge had the power to do so, he did not think, upon the material before him, that it would be proper for him to make the order asked. I. F. Hellmuth, K.C., and T. C. Robinette, K.C., for the accused. J. R. Cartwright, K.C., and J. B. Clarke, K.C., for the Crown.