

HOLMES v. MOWERY—MASTER IN CHAMBERS—JAN. 12.

Pleading—Third Parties—Service of Notice—Statement of Defence of Third Parties—Reply of Defendant—Departure—Amendment—Costs.]—Motion by third parties to vary or set aside an order for directions as to the trial of a third party issue or for leave to amend their statement of defence or for other relief. The writ of summons was issued on the 21st April, 1909, and served on the 15th May. The statement of claim was not delivered until the 15th February, 1910. The third party notice was issued on the 7th April, 1910, and the order for directions made on the 16th November, 1910. The third parties on the 21st November, 1910, delivered a statement of defence both to the claim of the plaintiff and that of the defendant as stated in the notice; and the defendant on the 29th November, 1910, delivered a pleading which was a defence to the plaintiff's statement of claim and a reply to the defence of the third parties. By this the defendant admitted the allegations of the statement of claim, and made his claim against the third parties on a different ground from that taken in the notice. The Master said that the defendant must rely on the ground taken in his statement of defence and reply, and must be taken to have substituted the ground there taken, on which he rested the liability of the third parties, for that set up in the notice, which must be considered as amended accordingly. Then, seeing that this was delivered after the third parties had pleaded, they must have leave to amend and to deliver a fresh statement of defence to the defendant's claim. Costs to the plaintiff and to the third parties against the defendant in any event. Featherston Aylesworth, for the third parties. M. J. O'Connor, K.C., for the defendant. E. Meek, K.C., for the plaintiff.

McVEITY v. OTTAWA FREE PRESS CO.—MASTER IN CHAMBERS—
JAN. 12.

Security for Costs—Libel—Property of Plaintiff Available to Answer Costs.]—Motion by the defendants for security for costs in an action for libel. The Master was satisfied that the motion was entitled to prevail, for the reasons given in the similar case of Mansell v. Robertson, ante 337, 380. Reference to the authorities there cited, and to Park v. Hale, 2 O.W.R. 1172. With unsatisfied executions against the plaintiff and a balance due on the chattel mortgage on his household furniture and effects (his only available property), it cannot be said that