

the list of cases entered for trial at that sittings, on the ground that it had been irregularly set down.

J. H. Rodd, for the defendants.

F. D. Davis, for the plaintiffs.

Judgment dismissing the motion was given at the close of the argument, and the following memorandum was afterwards sent to the Registrar.

MEREDITH, C.J.C.P.:—Mr. Rodd's contention is that, in effect, sixteen days' notice of trial must now be given, and the recent changes in the wording of the Rule (Rule 248 of 1913, which is Con. Rule 538 amended) give some colour to that contention. It was quite clear before such changes that ten days' notice of trial was enough; there was then nothing that would give any kind of encouragement to this motion.

Clause (a) of the changed Rule requires that "ten days' notice of trial shall be given before entering an action for trial," and clause (c) requires that an action shall be entered for trial "not later than the sixth day before the commencement of the sittings;" and so the sixteen days are made up; ten days before the action is set down and six afterwards.

But I can have no manner of doubt that there was no intention thus to extend the long standing 10 days' notice; nor am I compelled by the literal meaning of the new words of the Rule to hold that any change in this respect was brought about.

That which the Rule means is this: that no case shall be set down for trial until after a ten days' notice of trial has been given; and then it shall be set down six days before the sittings of the Court.

The motion is dismissed; there will be no order as to costs of it; the costs of the action have not been appreciably increased by it; and the point is a new one; and one which would be of much moment if effect had to be given to it.