

learned Judge was of the opinion that, while the material filed in support of the application by the defendant's solicitor makes out an apparently strong case as to the mental incapacity of the defendant, it would be improper, under the circumstances, to dispose of the matter without giving him an opportunity to be heard, and that in any case he should have had notice of the application, which did not appear to have been given: *Wolfe v. Ogilvy*, 12 P.R. 645. The motion would therefore be enlarged until Friday the 14th inst., to permit of the defendant being served. The plaintiffs should not be prejudiced by the delay, in the early trial or disposition of the action. J. A. Macintosh, for the defendant. S. G. Crowell, for the plaintiffs.

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NORTHERN SULPHITE v. OCCIDENTAL SYNDICATE—MASTER IN CHAMBERS—APRIL 6.

*Pleading—Statement of Defence—Admission Caused by Misconception of Minute in Books—Motion to Withdraw, and Substitute Another Defence—Excusable Mistake—Reference to Trial Judge.*]—In this action, the plaintiffs asked to have it declared that certain bonds of the Imperial Land Co., now in Court, are their property. In the statement of defence, it was stated that these bonds were purchased from their various holders by the defendants as agents for the plaintiffs. Since that time there has been evidence taken on commission in London, England, from which it appeared that the statement as to the defendants' agency was based upon a misapprehension by the solicitors here as to a minute in the defendants' books which are at present in England. Under these circumstances, the defendants moved to be allowed to withdraw their statement of defence, and deliver another which will omit that admission, and put their defence in a different shape, and more in accordance with the evidence obtained on the commission, and the other facts of the case. Held, that, according to the decision in *Williams v. Leonard*, 16 P.R. 544, 17 P.R. 73, the motion was entitled to succeed. It is quite clear that the admission of agency was made under a mistake, which was excusable under the existing conditions. It was suggested by the plaintiffs' counsel that the motion should be referred to the trial Judge. But this does not seem the proper course, as the record in its present shape would perhaps be read by the Judge. This would not only impose useless labour on him, but might also give a wrong impression