

Questions 452 to 456, 510 to 513, 585. 620. 654. 673. 699 to 707. 724 to 729. inclusive.

In regard to these, the defendants are not entitled to succeed on their motion.

In some cases the refusal to answer was because the names wanted were of persons who may be witnesses called by plaintiffs if this case goes to trial. It may be that a party to a suit is entitled to names and addresses of persons in certain cases, notwithstanding the fact that they may be called on behalf of the opposite party—but in this case the persons who may be witnesses do not form any substantial part of the material facts—and their names need not be disclosed. This is in line with the decisions of *Marriott v. Chamberlain*, 12 Q. B. D. 154, and *Humphries v. Taylor*. 39 Ch. D. 693.

Some of these questions are entirely irrelevant.

And as to some, the witness had, by his answers to other questions, given all the information in his power. There is, in point of fact, no such refusal to answer, as would in any way prejudice the defendants.

After a cross-examination of the witness in which 737 questions were put by the examining counsel, covering, as I think, the whole ground, and getting all information of value, it would, in my opinion, be improper to order a further attendance for further examination on this affidavit.

Motion dismissed with costs.

BRITTON, J.

NOVEMBER 24TH, 1903.

TRIAL.

### BONTER v. NESBITT.

*Settlement of Action — Dispute as to—Trial of Question —  
Finding of True Settlement — Costs—Solicitor's Lien —  
Acquiescence.*

Action for malicious prosecution and arrest, and counter-claim for amount of several judgments against plaintiff. The action was entered for trial at the spring jury sittings, 1903, at Cobourg. The parties met during the sittings, and, in the absence of counsel or solicitors, arrived at a settlement. Upon an appeal by plaintiff and his solicitor from an order of a local Judge dismissing appellants' motion for an order upon defendant to pay the costs incurred by plaintiff in the action, MACMAHON, J., ordered (ante 610) that plaintiff should be at liberty to continue the action for the recovery of costs, and the action went to trial again under this order. The defendant pleaded the settlement and release, and plaintiff replied setting up as the true settlement