

F. R. MacKelcan, for plaintiffs, objected that the Master had no power to deal with interrogatories.

THE MASTER:—The only Rule dealing with the subject is 503. On this only two cases are to be found in our reports. Neither of these deals directly with the question of jurisdiction. The head-note in *Lockwood v. Bew*, 10 P. R. 655, is likely to mislead unless the report is read.

No authority was cited in support of the motion; against it is the authority of *Hume-Williams and Macklin on Evidence on Commission* (1903), p. 101, where it is said that great care should be taken in framing interrogatories, for, "if the interrogatories contain leading questions, or are immaterial, irrelevant, or otherwise objectionable, the opposite party may object to the answers being received at the trial. It is not the present practice for the Master to consider interrogatories proposed to be administered to witnesses on commission, because the rules which so provide apply only to interrogatories *inter partes*; but the practice seems at one time to have been different."

For these reasons it is said to be usual to have interrogatories settled by counsel.

To the same effect is the judgment of Lord Denman, C.J., in *Small v. Nairn*, 13 Q. B. at p. 843. . . .

These authorities make it plain that, in the absence of express authority, there is no power to deal with these interrogatories. This conclusion is strengthened by the absence of any cases from our own reports. . . .

It seems clear that a party examining on interrogatories cannot be interfered with as is sought to be done in this case.

If the other side objects to his interrogatories, it may be wise to alter them. But a party is not obliged to do so. If he chooses he is free to take his risk of the commission evidence being rejected either in whole or in part by the Judge at the trial.

Motion dismissed with costs to plaintiffs in the cause.