

RICHARDSON v. McCaffrey—Sutherland, J., in Chambers—
Oct. 2.

Report—Settlement of by Master, in Absence of Defendants and without Notice to them—Rule 424—Report Set aside.—On the 19th July, 1919, the Master in Chambers, acting as an Official Referee, made a report, the last paragraph whereof was as follows: "I certify that I have settled this report in the presence of the plaintiffs, the defendants not being present, although duly notified." The defendants moved before one of the Registrars, sitting in place of the Master in Chambers, for an order setting aside the notice of filing of the report and the report, as irregular, in that no notice of settling the same had been given to the defendants, and, alternatively, on the ground that the report had been settled and signed in the absence of the defendants. The Registrar dismissed the motion with costs. The defendants now appealed from the order of dismissal. The appeal was heard in Chambers by SUTHERLAND, J., who said that Rule 424 was applicable: "424. As soon as the hearing of any matter pending before the Master is completed, he shall so inform the parties to the reference then in attendance, and make a note to that effect in his book; and after such entry no further evidence shall be received, or proceedings had, without the special permission of the Master; and the Master shall then fix a day to settle his report and shall cause notice of such day to be given to all parties interested not then in attendance, unless for special reason such notice is dispensed with." No notice of the settlement of the report was given to the defendants, and the statement to the contrary in the report was erroneous. The report had been settled irregularly, and should not be allowed to stand; the case should go back to the Master to enable him to do what is required to be done by Rule 424. There should be an order accordingly with costs to the defendants of the motion and appeal. H. J. Scott, K.C., for the defendants. A. C. Heighington, for the plaintiffs.