

CARTWRIGHT, MASTER.

MAY 27TH, 1903.

CHAMBERS.

AHRENS v. TANNERS' ASSOCIATION.

Discovery—Examination of Officer of Defendant Association—Person Having Knowledge.

Some years ago fourteen of the principal tanners doing business in Canada constituted themselves a body called the Tanners' Association. Their object was to offer such inducements to purchasers of sole leather as would lead them to purchase exclusively from the members of the association. The management of this matter was given to Mr. D. A. Burns, as secretary of the association. The plaintiffs made all their purchases of sole leather from the Breithaupt Co. Becoming dissatisfied with the Tanners' Association, the plaintiffs on 26th February last began an action against "The Tanners' Association." The writ was addressed to all the present members of the association, and was served on Mr. D. A. Burns "as a person having the control or management of the partnership business carried on by the Tanners' Association." To this writ the Breithaupt Co. alone appeared, stating that they were "sued as the Tanners' Association." The statement of claim was served on the solicitors so appearing, and they duly filed a statement of defence for the Breithaupt Co., alleging, inter alia, that "D. A. Burns was only authorized to act for them in reference to the matters in dispute; that the plaintiffs were bound to furnish Mr. Burns with satisfactory evidence of any claim, but that they had not done so."

The cause being at issue, the plaintiffs' solicitors proposed to examine Mr. Burns. This the defendants declined to allow, offering to produce any officer of the Breithaupt Co. that the plaintiffs might select. The plaintiffs' solicitors pressed their right to examine Mr. Burns, and on the 22nd May instant moved for an order directing him to attend.

C. A. Moss, for the motion.

W. N. Tilley, for defendants, shewed cause.

THE MASTER.—Mr. Tilley cited *Morrison v. Grand Trunk R. W. Co.*, 5 O. L. R. 38, 1 O. W. R. 180, 263, 758, laying stress on the point taken by the Court of the use that can be made of such depositions. But a perusal of the judgments in the case leads me to think that on the undisputed facts of this case Mr. Burns is examinable. He seems to me to be a very perfect illustration of the statement of Moss, C.J.O., in