

W. E. Raney, K.C., for plaintiff's motion.

A. R. Hassard, for defendant, contra.

CARTWRIGHT, K.C., MASTER:—The affidavit attacked claims privilege for "A quantity of reports fastened together numbered 1 to 77 inclusive initialled by this defendant." These are claimed to be privileged as "being reports and communications obtained for the information of solicitors and counsel and for the purpose of obtaining advice thereon with a view to litigation between the plaintiff and the said defendants."

It was objected (1) that the dates of these reports and the names of the authors should be given, and (2) that the claim of privilege was defective because it did not state that these reports were obtained solely for the purposes of the pending action.

The cases relied on in support of the motion were *Swaishland v. Grand Trunk Rv. Co.*, 3 O. W. N. 960, on both branches and *Jones v. Great Central Rv. Co.*, [1910] A. C. 4, on the second.

In cases such as *Collins v. London Gen. Omnibus Co.* (1893), 68 L. T. R. 831, no doubt the word "solely" is necessary in view of the previous judgment in the similar case of *Cook v. North Metropolitan*, 6 T. L. R. 22. But this qualification is not of universal application though it might be as well to use it in every case as a matter of precaution and for greater security.

As at present advised it does not seem necessary to express any opinion on this point, because the motion seems entitled to prevail on the first ground. The documents in question should comply with what was said in the *Swaishland Case (ubi supra)*, at p. 962, "Moreover it is essential that the documents should be so clearly identified that if it turns out that the affidavit on production is untrue there will be no difficulty in securing a conviction for perjury."

It would seem necessary, therefore, to give the date of each report and the name of the person making it for "where the name is a material fact it must be disclosed and it is no answer that in giving the information the party may disclose the names of his witnesses."

Bray's Digest of Discovery (1904), p. 39 citing *Marriott v. Chamberlain*, 17 Q. B. D. 154.

So too Odgers on Pleading, 5th ed. 179, citing in addition (with other cases) *Milbank v. Milbank*, [1900] 1 Ch. 376.