

the Seine, in the Republic of France, as shewn by letters rogatory issued by that Court, in relation to certain criminal proceedings against Isler pending in that Court upon a charge of fraud.

Edward Bayly, K.C., for the Attorney-General.

MIDDLETON, J., said that, according to the law of Canada, the accused cannot be compelled to give evidence, though he is competent to testify on his own behalf if he so desires. The law of France authorises the examination of the accused, and so differs from English and Canadian law.

*Desilla v. Fells and Co.* (1879), 40 L.T.R. 423, and *Eccles & Co. v. Louisville and Nashville R.R. Co.*, [1912] 1 K.B. 135, referred to.

In the Canada Evidence Act, the only limitation upon the right to examine is that found in sec. 45, which gives the witness the same right to refuse to answer questions tending to criminate, or other questions, as a party or witness would have in a cause pending in a Court in Canada.

The question of the obligation of Isler to submit to examination does not now arise, and the order sought ought to be made, leaving it to Isler to object (if he sees fit) to undergo any examination or to answer any questions which he may think would criminate him. He may be ready and anxious to give evidence.

Order made for the examination of Isler under sec. 41 of the Act, reserving to him all his rights under sec. 45.

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MEREDITH, C.J.C.P., IN CHAMBERS.      SEPTEMBER 17TH, 1915.

\*HIBBARD v. TOWNSHIP OF YORK.

*Costs—Discretion of Trial Judge—Leave to Appeal—Judicature Act, R.S.O. 1914 ch. 56, sec. 24—Scale of Costs—Jurisdiction of County Court—Action Removed into Supreme Court—County Courts Act, R.S.O. 1914 ch. 59, sec. 22.*

Motion by the plaintiff for leave to appeal to a Divisional Court of the Appellate Division from the judgment of MEREDITH, C.J.C.P., at the trial, upon the question of costs.

The action was brought in the County Court of the County of York to recover \$2,500 damages under the Fatal Accidents Act for the death of a person by reason of nonrepair of a high-