

defendant company's works in the district of Sudbury, brought this action to recover damages for injury alleged to have been done to his crop of vegetables and grain and to trees, metal roofing, etc., on his premises, by reason of sulphur fumes from the defendant company's works. The plaintiff also sought an injunction restraining the defendant company from further allowing the escape of sulphur fumes—alleging a nuisance. The defendant company said that it was necessary that their works should not be interfered with, because they were working 24 hours a day for 7 days in the week with a view to producing nickel for the British army and navy, their whole output being requisitioned therefor; they also said that they had an up-to-date plant and were using the best methods. The defendant company sought to take the evidence of the Secretary for War, the First Lord of the Admiralty, and the Minister of Munitions, or of officials under them, and of officials of the defendant company in England, for the purpose of shewing that it is essential that as much nickel as possible be produced for the army and navy, and to establish that the defendant company's entire output is now being used therefor. On the argument of the motion, counsel for the plaintiff offered to admit the existence of the greatest necessity for the output of as much nickel as possible for the purpose mentioned, and that the output was being used in that way. The Master said that such admissions should be sufficient for the defendant company's purposes; but, apart from that, the matter was of such common knowledge, that it was unnecessary to go to England for evidence.—The second branch of the motion was based on the necessity for obtaining expert evidence for the purpose of shewing the nature of the work carried on by the defendant company and the methods used, and shewing that their plant is modern and their processes scientific. The Master called attention to the fact that the plaintiff did not allege negligence on the part of the defendant company in allowing sulphur fumes to escape, nor did he assert that the defendant company's methods were not the best; and said that the contention of the plaintiff that there was no issue on the pleadings on which the expert evidence referred to would be relevant, and that such evidence would not be an answer to the plaintiff's claim, was entitled to prevail. See Halsbury's Laws of England, vol. 21, pp. 529, 532, 543, 564. In the exercise of a proper discretion, the motion for a commission should be refused—on both grounds; the admissions made by the plaintiff's counsel may be recited in the order; costs in the cause. R. U. McPherson, for the defendant company. H. S. White, for the plaintiff.