

MIDDLETON, J., IN CHAMBERS.

SEPTEMBER 25TH, 1911.

PARSONS v. CITY OF LONDON.

*Parties — Attorney-General — Addition of, as Plaintiff — Con.
Rule 185—Improper Joinder of Separate Causes of Action
—Rights of Ratepayers of Municipality—Rights of Public—
Pleading—Class Action.*

An appeal by the defendants the Royal Bank of Canada from an order of the Master in Chambers, ante 48, adding the Attorney-General as a party plaintiff.

C. A. Moss, for the appellants.

E. C. Cattanaeh, for the defendants the Corporation of the City of London.

Casey Wood, for the plaintiff.

MIDDLETON, J.:—The action was originally brought by Parsons on behalf of himself and all other ratepayers of the City of London.

Parsons asserted not only certain rights in the ratepayers, as cestuis que trust and otherwise, with respect to the lands in question, but upon the injunction motion sought to assert certain public rights, which, it was well objected, could only be asserted by the Attorney-General.

The joinder of these two independent causes of action is not permitted by our Rules. They are in no sense cognate. It may well be that the two actions can be conveniently tried together, but, if an action is brought by the Attorney-General, this can easily be arranged.

The appeal must be allowed and the action restored to its original plight. Parsons must amend by cutting down his statement of claim to that which he is prepared to stand by as a proper pleading in a class action.

It was arranged that the plaintiff should be relieved from the term imposed by the injunction order as to a speedy trial—a clause to this effect may be inserted in the order.

If there is any doubt about the matter, it is better that there should be a separation of the plaintiffs now, instead of difficulty at the trial, or later, when the remedy may not be so simple.

Costs to the defendants in any event.