

statutes from the like result attributable to the mere operation of law, where the meaning and effect of the phrase "by law" has been presented for the consideration of the Courts: *Wilkinson v. Calvert*, 3 C. P. D. 360; *Barlow v. Teal*, 15 Q. B. D. 501; . . . *Percival v. The Queen*, 33 L. J. Ex. 289. . . .

This application must be refused, the case being, in my opinion, not within the statute. The motion will be dismissed with costs.

CARTWRIGHT, MASTER.

MAY 14TH, 1906.

CHAMBERS.

CANADIAN PACIFIC R. W. CO. v. HARRI.

Pleading—Statement of Claim—Amendment—New Causes of Action—Allowance of, on Terms—Statute of Limitations—Costs.

Motion by defendant to set aside amended statement of claim.

W. C. Hall, for defendant.

Shirley Denison, for plaintiffs.

THE MASTER:—The action was begun on 30th October, 1905. The claim indorsed on the writ of summons was to recover possession of land in the town of Port Arthur and a sum for rent and use and occupation. The statement of claim did not go beyond this. It was delivered on 17th February, 1906. The statement of defence was delivered on 24th February, and subsequently about 7th March an amended statement of defence was delivered claiming a lien for improvements.

To this plaintiffs pleaded on 7th March; and on 21st April delivered an amended statement of claim asking relief in respect of other lands and water lots adjacent, which had not previously been mentioned either in the writ or the original statement of claim.

The defendant has now moved to set this aside.

The amended statement of claim seems to go beyond anything covered by Rule 244, especially in now asking an