of the words "subject to further order" under that rule, it should not be exercised to enable the plaintiffs to take as payment on account moneys which the defendants had offered only "in full satisfaction."

Middleton, for plaintiffs. *J. H. Moss* and *H. H. Macrae*, for defendants.

Meredith, C.J.C.P.] [Dec. 22, 1905.

DOON *v.* TORONTO FERRY CO.

Practice—Third party notice—Directions for trial—Discretion of the Court—Rules 209 and 213.

On a motion for directions for the trial of an action under Rule 213 it is in the discretion of the Court to determine whether having regard to the nature of the case it is a proper one for the application of the third party procedure notwithstanding that leave has been given to serve a third party notice under Rule 209.

Miller v. *Sarnia Gas Electric Co.* (1900) 2 O.L.R. 546, and *Holden* v. *Grand Trunk Ry. Co.* (1901) 2 O.L.R. 421 referred to and considered.

Judgment of the Master in Chambers reversed.

D. C. Ro , for plaintiff. *Greer*, for defendants. *Mackelcan*, for third parties.

Cartwright, Master.] [Jan. 4.

THOMSON *v.* MARYLAND CASUALTY CO.

Production — Affidavit on — Letters — Solicitor and client — Privilege.

In an action on a policy on the life of the plaintiff's husband, the defendants filed an affidavit on production, but objected to produce certain letters between a local and the head offices on the ground: "that they are privileged, being of a confidential nature and disclosing certain legal points in connection with the defence of this action." On a motion to compel production the defendants manager swore that: "It is my custom in the course of business, frequently to write to the head office on matters involving points of law; the head office confer with their general solicitors, receive legal advice from them, and then communicate with me. The letters (in question) are of the same nature as those between solicitor and client, and are, as I am advised and believe, privileged for that reason."

Held, not sufficient; and that the affidavit should state that the letters "came into existence for the purpose of being com-