

Province of Manitoba.

QUEEN'S BENCH.

Bain, J.]

UNGER v. LONG.

[April 27.

*Practice—Service on solicitor—Examination for discovery—Witness fees—Queen's Bench Act, 1895, Rules 382, 381 and 390—Alterations and interlineations in subpoena.*

This was an application under Rule 390 of the Queen's Bench Act, 1895, for an order for an attachment against the plaintiff for not attending on an appointment for his examination for discovery before a special examiner. A copy of the appointment was taken to the office of the plaintiff's solicitor more than forty-eight hours before the time appointed for the examination; and as the office was locked, the copy was pushed under the door, where it was found by the solicitor on his return to his office less than forty-eight hours before the time appointed.

*Held*—following *Consumers' Gas Co. v. Kissock*, 5 U.C.R. 542, and *McCallum v. Provincial Ins. Co.*, 6 P.R. 101—that Rule 382 had not been complied with.

*Held*, also, that it is necessary, under Rule 381, to hand the party with the subpoena enough money to pay his railway fares or mileage both ways, and also his witness fees for as many days as he will certainly be absent from his home in attending on the examination and returning home.

*Quere*, whether alterations and interlineations in a subpoena not authenticated by the prothonotary do not make it invalid. Application dismissed with costs.

*Mathers*, for plaintiff. *C. H. Campbell*, Q.C., for defendant.

Province of British Columbia.

EXCHEQUER COURT.

BRITISH COLUMBIA ADMIRALTY DISTRICT.

BJERRE v. THE SHIP "J. L. CARD."

*Action for wages—Assignment—Rights of Assignee—Action in rem.*

The right of action in rem for wages cannot be assigned. *Rankin v. The Eliza Fisher*, 4 Ex. R. 461 followed.

[VICTORIA, April 17, 1899.—McCull, C.J.]

This was an action for wages earned by the plaintiffs, one of whom was the master of and the others engineers, on the ship "J. L. Card." The Bank of Montreal, the mortgagees of the ship, appeared and intervened. At the trial evidence was produced to show that the claims for wages had been assigned to one Mellon, before action brought. The action came on