

amination for discovery of Julian Thornley as an officer of defendant companies.

J. H. Moss, for defendants.

W. E. Middleton, for plaintiff.

MEREDITH, C.J., held that plaintiff had a right to examine Thornley, and dismissed the appeal. Costs to be costs in the cause, unless the Judge at the trial otherwise orders.

MEREDITH, C.J.

MAY 11TH, 1906.

CHAMBERS.

McPHEE v. McPHEE AUTOMATIC CO.

*Discovery—Production of Books of Company—Affidavit on Production—Privilege—Relevancy.*

Appeal by defendants from order of Master in Chambers, ante 609, directing them to file a further affidavit on production.

G. M. Clark, for defendants.

G. B. Strathy, for plaintiff.

MEREDITH, C.J., directed that defendants should file an affidavit setting out entries relating to matters in question, and produce books for inspection and at the trial.

Costs in the cause.

MAY 11TH, 1906.

DIVISIONAL COURT.

NEWELL v. CANADIAN PACIFIC R. W. CO.

*Railway — Injury to Child Playing in Yard — Consequent Death—Liability of Railway Company—Neglect to Fence —Proximate Cause of Injury—Negligence—Trespasser.*

Motion by plaintiffs to set aside nonsuit entered by FALCONBRIDGE, C.J., at the trial at Toronto of an action by the father and mother of a boy who was killed in defendants' yard by a shunting train, to recover damages for his death.

R. S. Robertson, Stratford, for plaintiffs.

Angus MacMurchy, for defendants.

The judgment of the Court (BOYD, C., MAGEE, J., MABEE, J.), was delivered by

BOYD, C.:—Williams v. Great Western R. W. Co., L. R. 9 Ex. 158, is, perhaps, an extreme case (Pollock on Torts,