

not subject to examination for discovery. It was not shewn, though the plaintiff's counsel urged it, that the action was defended for the benefit of these brokers; and, even if the action were so defended, and if they were, as are persons for whose benefit an action is brought or defended (Rule 334), subject to examination for discovery, they, not being within the jurisdiction, were not subject to the examination which the plaintiff asked for: *Perrins Limited v. Algoma Tube Works Limited* (1904), 8 O.L.R. 634; *Stockbridge v. McMartin* (1916), 38 O.L.R. 95.

*Appeal dismissed with costs.*

KELLY, J., IN CHAMBERS.

MARCH 29TH, 1919.

VIGO v. HAMILTON.

VIGO v. SCOTT.

*Security for Costs—Plaintiff out of Ontario—Alien Convicted of Crime—Enlistment for Military Service in Canadian Battalion—Discharge from Service—Legality of, Attacked—Deportation from Canada—Right to Remain in Canada and to Prosecute Actions without Giving Security—Denial of.*

Appeals by the plaintiff from orders made in the two actions by the Master in Chambers dismissing the plaintiff's applications to set aside orders for security for costs.

F. Arnoldi, K.C., for the plaintiff.

R. H. Parmenter, for the defendant Hamilton.

M. L. Gordon, for the defendant Scott.

KELLY, J., in a written judgment, said that the main grounds on which the appeals were pressed were that the plaintiff, who when he entered Canada was an alien who had been convicted of crime in the United States and later on was convicted in Canada as well, and who when entering Canada did not comply with the immigration laws, had by his enlistment in a Canadian battalion acquired the status of Canadian citizenship; that his discharge from military service in December, 1918, was illegal; that, by reason of this alleged claim to Canadian citizenship, his subsequent deportation to Italy was improper and should not have been proceeded with; and that, therefore, he had such right to remain in Canada as would relieve him from liability to give security for costs in these two pending actions.