

distinguishing the boots or shoes so advertised, sold, or offered from those made or sold by plaintiffs.

M. H. Ludwig, for plaintiffs.

J. H. Moss, for defendant.

THE MASTER.—The defendant, upon being served with the writ of summons, communicated with George A. Slater, the vendor of the goods in question, with a view of obtaining information to aid him in the defence of this action, and certain letters and telegrams passed between them, which, on his examination for discovery, defendant refused to produce on the ground of privilege. In my opinion, under *Donahue v. Johnston*, 14 P. R. 476, and cases therein referred to, defendant is not bound to produce these documents.

As to the stock-book shewing stock in trade of defendant, as the defendant on his examination promised to "send it down," it should be produced. So also as to an account of one Richardson for printing hand bills.

As to the motion for particulars of the words "under the circumstances" in the 10th paragraph of the defence, I think the particulars of "the circumstances" are sufficiently set out in the preceding paragraph of the defence, and, besides, further particulars were given in the defendant's examination.

Order made for production of stock book and Richardson account for inspection. No further affidavit or examination necessary. Costs in cause.

STREET, J.

SEPTEMBER 19TH, 1902.

CHAMBERS.

MACKAY v. COLONIAL INVESTMENT AND LOAN CO.

Writ of Summons—Service out of Jurisdiction—Foreign Company—Transfer of Assets in Ontario to Ontario Company—Action to Set aside.

An appeal by the defendants from the order of the Master in Chambers, ante 569.

W. M. Douglas, K.C., and A. McLean Macdonell, for appellants.

C. D. Scott, for plaintiffs.

STREET, J., at the conclusion of the argument, dismissed the appeal with costs, and affirmed the order of the Master.