

for discovery of ship's papers, but this, on appeal, was set aside, the court holding that the discovery of ship's papers was peculiar to actions for losses at sea, and not to be extended to actions where, as in this case, the loss had taken place on land.

PRACTICE—SERVICE OF DEFENDANT OUT OF JURISDICTION—RULE 64
—(ONT. RULE 162 (g)).

The Hagen (1908) P. 189 deserves a passing notice. The action was in the Admiralty Division to recover damages against a German shipowner for a collision which took place in the Elbe. The plaintiffs' ship, which was British, when coming down the Elbe came into collision with another British ship, which in turn came into collision with a German ship. The agents of the plaintiffs' and the German ship exchanged letters of guarantee, but the owners of the German ship did not commence any action in Germany against the two British ships. The plaintiffs commenced the present action in personam against the owners of the other British ship and the owners of the German vessel and obtained leave to serve the latter out of the jurisdiction. The owners of the German vessel applied to discharge the order. Deane, J., refused the application, but the Court of Appeal (Lord Alverstone, C.J., and Farwell and Kennedy, L.JJ.) reversed his decision. The Court of Appeal admitted that the German owners were necessary or proper parties to the action and therefore *prima facie* within the rule; but it appearing that an action by the German owners was pending when this application was made in a German court in respect of the collision, that it was not a proper exercise of discretion to allow them to be served as defendants in the present action.

COMPANY—DEBENTURE—FLOATING SECURITY—SUBSEQUENT ISSUE
OF DEBENTURES—SPECIFIC CHARGE—PRIORITY—DEBENTURES
RANKING *PARI PASSU*—ORDINARY COURSE OF BUSINESS.

Cox Moore v. Peruvian Corporation (1908) 1 Ch. 604. This was an action by a debenture holder of a company to restrain the company from issuing a further series of debentures in such a way as to give them priority over that held by the plaintiff. The company had very extensive powers, and was not, as Warrington, J., found, a strictly trading corporation. It had power to issue debentures to the amount of £6,000,000. It did issue debentures to the amount of £3,700,000. These debentures were