

Province of Nova Scotia.

SUPREME COURT.

Full Court.] MERRITT v. COPPER CROWN MINING CO. [April 10.

*Practice—Mandamus—Order for set aside—Setting case down for hearing.*

Plaintiff, a foreign shareholder in a foreign corporation doing business in the Province of Nova Scotia, obtained a mandamus ordering the defendant company to produce for the inspection of plaintiff the register of stockholders, shewing the names and places of residence of persons holding shares and stock in the company, and the number of shares held by each person. Also to produce and file in the office of the Provincial Secretary an abstract of receipts and expenditures, profits and losses of the company within the province for each year during which the company did business within the province. Also to file at the office of the Commissioner of Mines for the province a copy of the charter or act of incorporation of the company, and of the by-laws and regulations of the company, together with a list of officers, etc.

*Held*, setting aside the order and allowing defendants appeal, that it was not just and convenient to grant the order as the effect of it would be to decide the whole case upon affidavit, leaving nothing to be disposed of at the hearing. And that while such an order might be useful in some cases in order to preserve the rights of parties or the subject matter until there could be a deliberate disposition made of it at the hearing, or where the matter could not wait until a hearing, it should not otherwise be disposed of in a summary way.

*Seemle*, that under the rules enabling a case to be set down for hearing at any time a strong case must be made out for pursuing a different course.

*Held*, that as the merits of the case must be disposed of later the costs of both parties to the appeal ought to abide the event.

*H. Mellish*, for appellant. *W. B. A. Ritchie*, K.C., for respondent.

Full Court.]

ROACH v. RIPLEY.

[April 13.

*Dyke land—Liability of owner for necessary repairs—Lost deed—Inference in relation to—Easement.*

In 1847 T. R. purchased from R. a portion of a large tract of marsh land of which R. was owner. From the time of the purchase down to the time of his death in 1886 T. R. contributed either by the performance of work or