

Mathers, J.]

[March 14.

CANADA RAILWAY ACCIDENT CO. v. KELLY.

Security for costs—Company resident out of jurisdiction—Assets within jurisdiction—Branch office in province—Foreign Corporations Act, R.S.M. 1902, c. 28.

Appeal from an order of the referee setting aside an order for security for costs taken out by defendant on praecipe under Rule 978 of the King's Bench Act. The plaintiff company was described in the statement of claim as a corporation "having its head office in the City of Ottawa in the Province of Ontario, and a branch office in the City of Winnipeg."

Held, following *North-West Timber Co. v. McMillan*, 3 M.R. 277, and *Ashland Company v. Armstrong*, 11 C.L.R. 414, that defendant was prima facie entitled to the praecipe order.

(2) The assets of the company in this province, consisting of some office furniture of small value and the premiums collected at the branch office in Winnipeg for transmission to the head office in Ottawa, were not of such a character as to warrant setting aside the order for security.

(3) The plaintiffs had not acquired a residence in Manitoba, within the meaning of that term in Rule 978, by having a branch office here and taking out a license under the Foreign Corporations Act, R.S.M., 1902, c. 28, to transact its business in this province: *Ashland Company v. Armstrong*, supra.

Appeal allowed with costs to defendant in any event of the cause.

Coyne, for plaintiffs. *O'Connor*, for defendant.

Macdonald, J.]

[March, 16.

MATTICE v. BRANDON MACHINE WORKS CO.

Patent of invention—Novelty—New combination of well-known devices.

Action for damages for infringement of plaintiff's patented grain pickling machine by defendants, and for an injunction. The defendants established the existence of two similar machines, patented before that of the plaintiff. The principle of each machine was the same, the grain being fed into a hopper on the top of a box containing a revolving worm or screw, and the