

nishing order was served on the Dominion Fish Co. An application was then made at Toronto to set aside the garnishing order, and in support of such application affidavits made by two officials of the company were filed. An order was made by the Master in chambers in Toronto for the cross-examination at Winnipeg upon these affidavits. Upon an ex parte application made to a judge of this court, an order was made under s. 57 of the Manitoba Evidence Act, R.S.M. 1902, c. 57, as re-enacted by c. 11 of 4 & 5 Edw. VII., commanding the attendance of these officials before the examiner named in the order of the Master in chambers at such time and place as he might appoint, and for the production of the books and documents, etc. Upon application made to set aside the last mentioned order,

Held, that nothing in the statute referred to authorized a judge of this province to make an order requiring the attendance of a person making an affidavit in a suit or proceeding pending in a court outside the Province of Manitoba for the purpose of being cross-examined on it within the province and that, although the officials sought to be examined had acquiesced in the order by attending for partial examination and in other ways, they had not lost their right to move for the rescission of the order. *Smurthwaite v. Hannay* (1894), A.C. 501, and *Hoffman v. Crerar*, 18 P.R. 473, followed.

Order set aside but without costs because of the long delay before moving against it, and because the plaintiffs had been allowed to incur considerable expense in attempting to enforce it before the application was made.

Burbidge, for plaintiffs. *Knap*, for garnishees.

Province of British Columbia.

COURT OF APPEAL.

Full Court.]

[Feb. 10.

RE JONES & MOORE ELECTRIC CO.

Company law.

Appeal from judgment of MACDONALD, J., noted vol. 44, p. 246, dismissed with costs.