

and the other two executors who did not live in Manitoba, together an additional two per cent.

Atkins, K.C., for Riley. *Hough*, K.C., for the estate.

Cameron, J.]

[Feb. 17.

WATSON MANUFACTURING CO. v. BOWSER.

Practice—Application to extend time for service of statement of claim.

Application under Rule 176 of the King's Bench Act to extend the time for service of the statement of claim on defendant McDonald. The action was commenced Nov. 15th, 1907, against Bowser and McDonald to recover on four promissory notes, the last of which fell due on the 1st March, 1902, so that unless the application were granted, the right of action against McDonald was gone. Under the rules of court the statement of claim must be served within six months, but there is no time fixed within which an order extending the time must be applied for.

Held, that unless there be extraordinary circumstances such an application should be made within six months, especially as the plaintiff can obtain substitutional service or some other remedy under Rule 203, and in all cases an honest attempt to serve the defendants within the proper time should be shewn.

The affidavit in support of the application shewed only that the plaintiff's solicitor had been constantly endeavouring to "locate" the defendant McDonald, but without success, until recently, when it was discovered that he resided in Wasota, in Saskatchewan.

Held, that this affidavit did not shew that reasonable efforts had been made to effect the service, and that the application should be refused. *Doyle v. Kaufman*, L.R. 3 Q.B.D. 340, followed.

Fillmore, for plaintiffs.

Mathers, J.]

[Feb. 19.

BANK OF NOVA SCOTIA v. BOOTH AND DOMINION FISH CO.
GARNISHEES.

Manitoba Evidence Act, R.S.M. 1902, c. 57, s. 57, as re-enacted by c. 11 of 4 & 5 Edw. VII.—Order of foreign court for examination of witnesses in Manitoba—Order for attendance of witnesses for purposes of suit before foreign tribunal.

In an action in the High Court of Justice of Ontario a gar-