

RE ORR AND CASH—BRITTON, J.—OCT. 25.

Vendor and Purchaser—Contract for Sale of Land—Objections to Title—Reference to Master.]—Motion by the purchaser, under the Vendors and Purchasers Act, for an order declaring that the purchaser's objections to the vendor's title to land agreed to be sold, had not been answered, and that the vendor could not make a good title. BRITTON, J., directed that the questions as to title raised and set out in the notice of motion be referred to the Master in Ordinary, to be determined by him. G. T. Walsh, for the purchaser. A. J. Keeler, for the vendor.

STEWART V. BATTERY LIGHT CO.—HOLMESTED, SENIOR REGISTRAR,
IN CHAMBERS—OCT. 30.

Evidence—Motion for Foreign Commission—Examination of Plaintiffs Abroad—Nature of Action—Refusal of Motion—Examination of Witness not a Party—Allowance of.]—This was an action to set aside certain subscriptions for stock in the defendant company, and to recover payments made in respect thereof, on the ground that such subscriptions and payments were procured by the fraud and misrepresentations of the defendants Wilson and Schabel. The plaintiffs applied for a commission to take at Vancouver the evidence of one Smith and of two of the plaintiffs, residing in Vancouver, and of another plaintiff, residing in Seattle. The application was resisted, as far as the evidence of the plaintiffs was concerned, by the defendants, on the ground that they could not properly instruct counsel in Vancouver to cross-examine the plaintiffs, and that for the proper cross-examination of the plaintiffs, both the defendants Wilson and Schabel ought to be present. The learned Registrar said that, having regard to the nature of the case and the fact that it must inevitably turn on the measure of credibility which the Court might give to the evidence of the plaintiffs and defendants respectively, it seemed of first importance and in the interest of justice that all parties should be present and give their evidence in open Court. Although, as the learned Master in Chambers had observed, it is almost of right that a commission should issue, yet it is not absolutely so. That there is a discretion to grant or refuse it is undeniable, and this appeared to be a case in which justice would be best served