

practically impossible for them to keep the 80 miles of roadway within the township free of snow. Action dismissed with costs.

Meredith & Fisher, London, solicitors for plaintiff.

Cowan & Towers, Sarnia, solicitors for defendants.

WINCHESTER, MASTER.

SEPTEMBER 5TH, 1902.

MACKAY v. COLONIAL INVESTMENT AND
LOAN CO.

Writ of Summons—Service out of Jurisdiction—Foreign Company—Transfer of Assets in Ontario to Ontario Company—Action to Set aside.

Motion by defendants resident in Toronto and Montreal respectively for an order setting aside the writ of summons, the order permitting service thereof outside of Ontario, and the service of the writ.

The plaintiffs resided in Nova Scotia. The defendants were: The Colonial Investment and Loan Company, duly incorporated and having their head office in Toronto, Ontario; the Montreal Loan and Investment Company, duly incorporated and having their head office in the Province of Quebec; and the liquidators of the Montreal Loan and Investment Company, also residing in the Province of Quebec.

The plaintiffs sued on behalf of themselves and all other shareholders in the Montreal company to set aside certain agreements and resolutions for the sale and transfer of the assets of the Montreal company to the Toronto company, on the grounds that the meeting of shareholders of the Montreal company at which the resolutions were passed was illegal; that the plaintiffs had no notice of such meeting; that there was no public notice of the sale and transfer; and upon the ground of fraud.

The plaintiffs also claimed an account of the assets of the Montreal company received by the Toronto company, restitution thereof, and the appointment of a receiver.

In the alternative, the plaintiffs claimed a proper distribution of the proceeds of the sale of the assets among the shareholders.

A. B. Aylesworth, K.C., for the defendants the Colonial Investment and Loan Company, and W. M. Douglas, K.C., for the other defendants, contended that the Ontario Courts had no jurisdiction over the subject-matter of the action or