

RUSSELL v. GREENSHIELDS—MASTER IN CHAMBERS—JAN. 10.

Writ of Summons—Service out of the Jurisdiction—Con. Rule 162—Both Parties Resident in another Province—No Assets of Defendant in Ontario—Proper Forum.]—Motion by the defendant to set aside an order made under Con. Rule 162 giving the plaintiff leave to serve the writ of summons and statement of claim upon the defendant in the Province of Quebec, and to set aside the service made under the order. The plaintiff and defendant were partners in certain lands in the North-West to which the Canadian Northern Railway Company made adverse claim. This action was based on a breach of his duty by the defendant, as such partner, in assenting to an arrangement with the Dominion Government in settlement of the claims of the railway company, by which the plaintiff alleged he was injured, and he claimed \$1,250,000 damages. It was stated in the statement of claim that both the plaintiff and defendant were resident in the province of Quebec. The Master said that he was not aware of any case in which a foreign plaintiff had been permitted to prosecute an action in Ontario against an unwilling foreign defendant. He referred to *Sirdar Gurdial Singh v. Rajah of Faridkote*, [1894] A.C. 670; *Lopez v. Chavarri*, [1901] W.N. 115; *Atkinson v. Plimpton*, 6 O.L.R. 566, 573. As both parties were resident in Quebec, and the partnership agreement was made there as alleged, the Quebec Courts would be best qualified to determine the issues; and, further, there were, so far as appeared, no assets of the defendant in Ontario. Reference to *Standard Construction Co. v. Wallberg*, 20 O.L.R. 646; *Baxter v. Faulkner*, 6 O.W.R. 198; *Re Morrow*, 26 Gr. 420. Order made setting aside the order and service with costs. *Wallace Nesbitt*, K.C., and *Britton Osler*, for the defendant. *I. F. Hellmuth*, K.C., and *C. J. R. Bethune*, for the plaintiff.

MCCAMMOND v. GOVENLOCK—MULOCK, C.J. Ex.D.—JAN. 10.

Vendor and Purchaser—Contract for Sale of Land—Purchase-money Payable by Instalments—Default—Forfeiture—Termination of Contract—Acceptance of Lease by Purchaser—Action to Set aside—Fraud—Finding of Fact.]—Action to set aside a lease made by the defendant to the plaintiff and to compel the defendant to account for insurance and other moneys, including the value of certain lumber. The plaintiff alleged an agreement between her and the defendant, dated the 1st Novem-