

claim against the insolvent estate, and was then about to return to Wichita; that the head office of the company was in Wichita; and that the company did not carry on business within Ontario or Canada. There was nothing to shew how the company became a creditor of the insolvent company, nor—unless what the defendant Walcott was doing should be so interpreted—was there anything to shew that this company had an office or place of business or transacted or carried on business in Ontario, within the meaning of Rule 23.

The learned Judge could not think that an effort to realise a dividend upon the company's claim was in any sense "carrying on business."

Reference to *Standard Ideal Co. v. Standard Sanitary Manufacturing Co.*, [1911] A.C. 78; *Allison v. Independent Press Cable Association of Australasia Limited* (1911), 28 Times L.R. 128; *Woodbridge & Sons v. Bellamy*, [1911] 1 Ch. 326; *Murphy v. Phoenix Bridge Co.* (1899), 18 P.R. 406; *Wilson v. Detroit and Milwaukee R.W. Co.* (1860), 3 P.R. 37.

The learned Judge said that it was unnecessary to consider whether the plaintiff had a right without leave to issue a writ for service upon foreign defendants.

The whole question is subject to the rules of international law as declared by the Privy Council in *Sirdar Gurdial Singh v. Rajah of Faridkote*, [1894] A.C. 670.

Order setting aside the service as regards the defendant company, with costs.

MASTEN, J., IN CHAMBERS.

APRIL 15TH, 1919.

**REX v. SPENCE.*

Prohibition—Police Magistrate—Jurisdiction—Information Laid under Order in Council Made pursuant to War Measures Act, 1914, 5 Geo. V. ch. 2, secs. 6, 10—Alternative Methods of Trial—Summary Proceedings under Part XV. of Criminal Code or by Indictment—Election of Crown to Proceed before Magistrate—Second Application for Prohibition—Refusal—Discretion.

Motion by the defendant for an order prohibiting one of the Police Magistrates for the City of Toronto from trying the defendant summarily upon an information for publishing a book called "The Parasite" containing objectionable matter, and from convicting and imposing a penalty, upon the ground that the magistrate had no jurisdiction under the War Measures Act,