

Burbidge, J.]

[April 10.

THE QUEEN v. JAMES WALLACE, WILLIAM A. ROSS, JOHN O'LEARY,
AND MARY KELLY.

Expropriation—Tender—Sufficiency of—Costs—Mortgagees.

1. Where the amount of compensation tendered by the Crown in an expropriation proceeding was found by the court to be sufficient, and there was no dispute about the amount of interest to which the defendant was entitled, but the same was not tendered by the Crown though allowed by the court, costs were refused to either party.

2. Where mortgagees were made parties to an expropriation proceeding, and had appeared and were represented at the trial by counsel, although they did not dispute the amount of compensation, they were allowed their costs.

J. M. Clark and A. W. Fraser for Crown. M. O'Gara, Q.C., and Wyld for defendant Wallace. John Bishop for defendant mortgagees.

Province of Ontario.

HIGH COURT OF JUSTICE.

Armour, C.J., Street, J.] MURPHY v. PHŒNIX BRIDGE CO. [April 10.

Writ of summons—Service on foreign corporation—Business within Ontario—Servant—Agent—Rule 159.

A foreign corporation engaged in building bridges, which were partly in Ontario, had a temporary office in Ontario, in which their foreman and a man under his immediate direction and control, and subject to dismissal by him, whose duty it was to keep the time of the men employed in the work and to pay their wages, attended to the office part of their duties. The corporation sent this man money, which he deposited in a bank in Ontario to his own credit, and chequed it out for wages, and occasionally for other purposes of the corporation. After the work had been suspended and the foreman had left, this man was in Ontario under directions from the corporation "to clean up everything," and while there was served with the writ of summons in an action for negligence in the erection of one of the bridges outside of Ontario. Upon being examined as a witness by the plaintiffs, he said that he was the chief clerk in Ontario, though there "wasn't much clerkship about it."

Held, that he was to be deemed the agent of the corporation within the meaning of Rule 150, and the service was effective. Decision of MEREDITH, C.J., ante, reversed.

W. H. Blake, for defendants. *Mulvey*, for plaintiffs.