

The action between the parties, in the present case, arose out of a contract whereby the appellant company undertook to supply the respondent company with what is known as "choice" hops from California, Oregon and British Columbia.

During the life of the contract, in the year 1907, the hops from British Columbia were refused by the respondent company as not being up to standard, and the present action was taken to recover damages for breach of contract.

The action was taken in July, 1908, and the plea, owing to *pourparlers* between the parties, was not filed until May, 1909.

Further *pourparlers* ensued, and, finally, in June, 1910, plaintiff — the present appellant — made two motions for the issue of two rogatory commissions; one to examine witnesses in England, the other to examine witnesses in Washington, D. C.

The main reason alleged in these motions was that competent, and at the same time, disinterested witnesses, living in the vicinity of Montreal, could not be found, because in Montreal, the hop interests, as represented by the appellant company, find themselves in the enemy's camp, as represented by the respondent company, and in the localities mentioned, expert witnesses could be easily obtained.

The motion asking for a commission to Washington, D. C., was granted by the following judgment. The motion asking for a commission to England was refused.

"Considering that the writ in this cause was issued on August 1st, 1908, that the issues were joined on June 18th, 1909, that the cause was inscribed for trial on September 3rd, 1909, and that said motion was made only on the 15th of June, 1910.

"Considering that said motion applies for a commission