

to make rules with regard to all costs of or incidental to the examination of any witness or person, including the remuneration of the examiner, if any, whether the examination be ordered pursuant to that Act or under this or any other Act for the time being in force relating to the examination of witnesses beyond the jurisdiction of the court ordering the examination.

6. When pursuant to any such commission, mandamus, order, or request as in this Act referred to, any witness or person is to be examined in any place beyond the jurisdiction of the court ordering the examination, such witness or person may be examined on oath, affirmation, or otherwise, according to the law in force in the place where the examination is taken, and any deposition or examination so taken shall be as effectual for all purposes as if the witness or person had been examined on oath before a person duly authorized to administer an oath in the court ordering the examination.

PRIVY COUNCIL.

AT THE COURT AT OSBORNE HOUSE, ISLE OF WIGHT.

December 29, 1885.

PRESENT :

THE QUEEN'S MOST EXCELLENT MAJESTY,
LORD PRESIDENT,
DUKE OF RICHMOND AND GORDON,
SIR FRANCIS SANDFORD.

SWEENEY V. BANK OF MONTREAL.

Order granting leave to appeal.

Whereas there was this day read at the Board a Report from the Judicial Committee of the Privy Council, dated 12th December, 1885, in the words following, viz. :

"Your Majesty having been pleased by your general order-in-council of the 18th November, 1885, to refer unto this Committee the matter of a humble Petition of the Bank of Montreal in the matter of an Appeal from the Supreme Court of Canada between the Bank of Montreal (Defendants), Appellants, and Dame Emily Sweeney (Plaintiff), Respondent, setting forth that this is a petition for a special leave to appeal from a decision

of the Supreme Court of Canada reversing a decision of the Court of Queen's Bench for Lower Canada (Appeal Side), which confirmed a decision of the Superior Court for Lower Canada sitting at Montreal. The action was brought on the 23rd of May, 1881, by Dame Emily Sweeney (hereinafter called the respondent), against the Bank of Montreal (hereinafter called the appellants), for the purpose of having it declared that she was the owner of 30 shares in the Montreal Rolling Mills Company, of the par value of \$100 a share, and of having such shares transferred or the value paid to her. The material facts of the case, as appearing in the evidence, are as follows:—A letter dated the 18th of March, 1871, from Messrs. Crawford & Lockhard, of Belfast, in Ireland, to James Rose, was tendered in evidence, which showed that Messrs. Crawford & Lockhard remitted through the appellants' bank by the direction of the family of the respondent to James Rose, the sum of \$9,930.71. An entry in the books of Morland, Watson & Co., of which firm Rose was a partner, was tendered in evidence, which showed that Rose transferred the above sum to his credit with Morland, Watson & Co., and that he drew out part of such sum or of a further sum added thereto by Messrs. Crawford & Lockhard (as to which the evidence was similar), on the 4th of April, 1871. An account entered as the account of "James Rose in trust" in the books of the Montreal Rolling Mills Co. was tendered in evidence, which showed that on the 4th of April, 1871, Rose invested \$4,000 in the purchase of four shares in the Montreal Rolling Mills Co. of \$1,000 each. On the 11th of April, 1871, Rose obtained from the Montreal Rolling Mills Co. a certificate numbered 0,008, certifying that Rose "in trust" was the holder of three shares of \$1,000 each: the certificate stated on its face that the shares were transferable only on the books of the Company: subsequently the value of the shares of the Montreal Rolling Mills Co. was changed from \$1,000 to \$100 each: on the 3rd of June, 1879, Rose transferred to Buchanan, as the manager of the appellants' bank, 250 shares of \$100 each in the Montreal Rolling Mills Co., and on the 13th of March, 1879, a further amount of 60