

I therefore order that the time for the respondent to present his preliminary objections to the petition filed against him be extended beyond the period of five days fixed by sec. 12 of the Act, and that he be allowed until Monday, the 21st September, inclusive, to present such preliminary objections. The costs will be costs in the cause.

BOLE, Loc. J.]

[September 29.]

GOLDEN GATE MINING CO. v. GRANITE CREEK MINING CO.

Attachment—Service of notice of motion.

An application was made herein for leave to issue a writ of attachment against the manager of the defendant company, for disobeying an order of Court. On the 8th day of June, 1896, an injunction order was obtained ex parte restraining the defendants, their servants and agents, etc., from committing certain trespasses upon the plaintiffs' mining claim. The defendants moved to dissolve this order, and upon the motion coming on to be heard before Mr. Justice McCreight, the injunction was, with some variations, continued by consent. Subsequent to the amended order, the acts complained of were done.

Held, that service of the notice of motion for writ of attachment need not be personal, but may be made on the solicitor, and that the order need not have the endorsement required under Order 41, Rule 4.

McDonell, for plaintiff.

Senkler, for defendant.

North-West Territories.

SOUTHERN ALBERTA JUDICIAL DISTRICT.

SCOTT, J.]

[August 19.]

PATTON v. ALBERTA RAILWAY & COAL CO.

Notice of appeal—Staying execution—Costs.

Plaintiff had recovered a verdict and judgment against the defendants, and the defendants had served notice of motion to the Court en banc for a rule to show cause why the verdict should not be set aside, and for a non-suit or for judgment for the defendants, or a new trial.

This was an application by the defendants for a stay of execution pending the appeal to the Court en banc, on the grounds that irreparable loss would otherwise result to the defendants, and that the plaintiff was a person of little or no means, and would be unable to repay the amount levied under execution in case the defendants were successful in their appeal.

It was contended by the plaintiff that no notice of motion for a new trial or notice of appeal had been given as required by sec. 512 Jud. Ord., and that in consequence there was no jurisdiction to hear the application.

Held, that the notice given was sufficient to give jurisdiction to hear the application.