

Held, on appeal from the Referee, that the officer should avail himself of the best sources of information and put himself in a position to answer all proper questions without the aid of a memorandum, or if he cannot rely upon his memory for all the facts he may rely upon a memorandum prepared by himself or otherwise under such circumstances that he can pledge his oath to its accuracy. If the information is contained in documents, books or papers, he must inspect them if he has an enforceable right to do so, and if the inspection is wrongfully refused he must take proceedings to enforce it: *Bray's Digest*, p. 53. If the information is contained in documents or papers in the custody of another officer of the corporation, he must not be satisfied with the statement of such other officer as to their existence or contents, but must inspect them himself. *Bolckow v. Fisher*, 10 Q.B.D. 161, and *Anderson v. Bank of British Columbia*, 2 Ch. D. 657, followed.

Welsback Co. v. New Sunlight (1900) 2 Ch. 1, distinguished. Order made accordingly.

Mulock, K.C., for plaintiff. *Aikins*, K.C., for defendants.

Province of British Columbia.

SUPREME COURT.

Martin, J.]

[Nov. 21, 1906.]

NORTHERN COUNTIES INVESTMENT TRUST v. CANADIAN
PACIFIC RY. CO.

Railway—Damage by fire—Sparks from engine—Inflammable material on right of way—Limitation of actions.

This was an action for damages for setting fire to the plaintiffs' orchard adjoining the right of way of the defendants' railway; the fire being alleged to have been caused through sparks having been omitted from the engine. The jury brought in a verdict of \$2,500 damages and on motion for judgment on the verdict of the jury, it was opposed by defendant counsel on the ground that the action was barred because it was not brought within six months as required by s. 27 of the Consolidated Railway Act, 1879, which the defendants claimed the benefit of. The negligence found consisted also in allowing an accumulation