moment's reflection will convince that a personal examination of the injuries complained of must have been intended and not an oral examination of the person injured. The word examination is used in the Act in the sense of inspecting, observing carefully, looking into the state of, as, *e.g.* to examine a building, a record, or a wound, and not in the sense of interrogating or examining a witness for the purpose of eliciting testimony. The jurisdiction is manifestly one to be exercised with great care and discretion, the more so as the examinant may be called as a witness at the trial by the party at whose instance he has been appointed."

The motion for leave to appeal is refused. Haggarty, C. J. C., Burton and Maclennan, J. J. A., concurred in dismissing the motion.

ENGLAND.

Formerly, upon appeal, in mayhem an inspection of the limb, organ or part, was often made by the court, with the aid of a surgeon: 2 Rolle v. Air., 578.

Under the writ "*de ventre inspiciendo*," taken from the Roman Law, such powers were exercised by the courts, and the jury was composed of matrons: Ex-Parte Aiscough, 2 P. Wms 591.

In cases of rape, both in England, America, and all countries, from the necessities of the case, an examination of the parts is usually made by order of the court, or under its direction. If it was refused by the complainant, it would result in an acquittal if the court should refuse to order it.

In actions for divorce, both in England and America, courts have exercised the power of ordering an inspection of the person by surgeons, in a certain class of cases, because of the peculiarities of proof in such cases where a personal inspection might determine the issue: Bishop on marriage and divorce, 245.

By the regulation of railways act of (1868) 31 and 32 Vic. Ch. 119, sec. 26, it is provided that in England :—

"An order may be made directing that a person injured by a railway accident be examined by a duly qualified medical practitioner, not being a witness on either side."

This, it will be noticed, is now a statute power and not a common law one.

In the following states the Supreme Court has held the power to be inherent in the court to order such an examination in furtherance of the ends of justice :—

Alabama.—Ala., &c., R. R. Co. v. Hill, 90 Ala. 71. McGuft v. State, 88 Ala. 147.

Arkansas.—Sibley v. Smith, 46 Ark. 295.

Illinois.—It was at first held in Parker v. Ensloe, 102 Ill. 272, that the court had no such power. Later the court has receded from that view, and the law of Ill. now appears to be that such an order may be granted in a proper case: Chicago, &c.. R. R. v. Holland, 12 Ill., 461. Joliet, &c., Ry. Co. v. Caul, 32, it E. Rip. 388.

Iowa.—Schroeder v. C., R, I. & P. R. R. 47 Iowa 375.

Kansas.—Atchinson, &c., R. R. Co. v. Thud., 29 Kan. 466.

Michigan.—Graves v. City of Battle Creek, 95 Mich. 266.

Missouri.—Lloyd v. R. R. Co., 53 Mo., 509. Side Kum. v. W., St. L. & P. R. R. Co., 93 Mo. 400. Owens v. Kansas City and R. R. Co., 95 Mo. 169. Shepard v. Mo. Pac. R. R. Co., 85 Mo. 629.

Nebraska.—Stuart v. Havens, 17 Neb. 221. Souix City and R. R. Co. v. Finlayson, 16 Neb. 578. Miami and T. Co. v. Bailey, 37 Ohio 104.

Texas.—I. & G. U. Ry. Co. v. Underwood, 64 Texas 463. Mo. & R. R. Co. v. Johnson, 72 Texas 95.

Wisconsin.—White v. Milwaukie & R. R. Co., 61 Wis. 536.