

against the Moffets or either of them; (3) that the judgment having been granted improvidently and improperly, and being erroneous, the order applied for should be refused and the judgment vacated, etc.

The proceedings in this action have had a somewhat peculiar course. The action was commenced in the early part of 1902, by writ issued out of the County Court of the county of Carleton. It was removed by order of a local Judge (affirmed on appeal) into the High Court. The writ was specially indorsed with a claim for "\$248.47, the amount due on and under a judgment recovered by the plaintiff against the defendant in the Superior Court in and for the district of Ottawa, in the Province of Quebec, on the 4th day of November, 1901," and was served on Flavien V. Moffet, manager of *Le Temps* Publishing Company, but without the notice in writing required by Rule 224 informing him in what capacity he was served. *Le Temps* Publishing Company appeared by the name mentioned in the writ as if sued as a corporation.

A motion for summary judgment was granted on the 4th June, 1902, for the sum claimed in the writ, upon an affidavit of one J. C. Brooke, verifying an exemplification of judgment recovered in Quebec against *La Compagnie de Publication Le Temps*. Against this order and judgment an appeal was taken before Britton, J., which was dismissed on the 7th June, 1902. From his judgment a further appeal was taken to a Divisional Court. Some of the grounds of both appeals were that personal service of process was in Ontario and not in Quebec; and the appearance thereto was involuntary (*sic*) and defendants should have leave to defend on the merits; (2) that the Court in Quebec had no jurisdiction; (3) the judgment was against public policy, and shews on its face that it treats as a wrong what is not such by our law, etc.; (4) that if the action in the Quebec Court is one for libel, defendants were entitled to notice of action, and the right of action is now barred.

This appeal was dismissed on the 9th September, 1902.

The plaintiff rested until March, 1903, when he obtained an order from Britton, J., to examine one Flavien Moffet as a judgment debtor. An appeal to a Divisional Court from this order was also taken, and dismissed on the 7th April, 1903, with an explanatory variation shewing that Moffet was to be examined as "one of the registered partners of the defendants, otherwise called *La Compagnie de Publication Le Temps*, under Rule 910."