

Particulars of the statement of defence were demanded by the plaintiffs in the first action, and the defendants furnished particulars of 21 different patents, including the Weinshenck patent, claiming priority. In this action the plaintiffs sued for infringement of the Weinshenck patent, which they purchased subsequently to the bringing of the first action, and claimed that the defendants had infringed upon this patent. The defendants pleaded anticipation; that the Weinshenck patent was not valid; and that the invention was not new. The Master said that the plaintiffs were inconsistent in their claims. In the first action they claimed that the Rottenburg patent was valid and in this action that the Weinshenck patent was valid. The defendants were at liberty to allege any fact which would be allowed to be proved at the trial. The trial Judge would allow the defendants to prove that the Weinshenck patent was not valid, and that there were other patents prior to it. Reference to *Duryea v. Kaufman*, 21 O.L.R. 166. Motion dismissed with costs to the defendants in the cause. A. C. Heighington, for the plaintiffs. T. S. Elmore, for the defendants.

FLETCHER v. CHALIFOUX—MASTER IN CHAMBERS—OCT. 8.

*Writ of Summons—Service out of the Jurisdiction—Rule 25 (e), (h)—Breach of Contract — Tort — Conditional Appearance.*]—Motion by the defendants to set aside an order of the Local Judge at L'Orignal allowing service of a writ of summons out of the jurisdiction. The plaintiff claimed damages for breach of warranty on the sale of a sawing-machine, or, in the alternative, for wrongfully and unlawfully concealing certain dangerous defects therein at the time of the sale. The plaintiff was a farmer in Ontario, and the defendants carried on business as manufacturers at St. Hyacinthe, in the Province of Quebec. In December, 1913, the plaintiff purchased from the defendants a sawing-machine, which was subsequently delivered to the plaintiff. On the 2nd March, 1914, the machine, while being operated by the plaintiff in Ontario, collapsed, and the circular saw, which formed part of the machine, struck the plaintiff on the left arm, injuring him. The Master said that the order permitting service outside of the jurisdiction could not be sustained under the provisions of Rule 25 (h), as the material before the Local Judge clearly established that the defendants did not have property