

ance. Nothing was said in the order as to service of statement of claim, but the writ directed appearance to be entered and defence to be delivered within 20 days. The writ itself, and not a notice, was served on Bice. . . .

It was contended that Rule 147 was authority for what has been done here. In the absence of any judicial interpretation, I do not think this is so. That Rule seems to be intended to give power to apply the provisions of Rule 159 as to service on corporations to cases where a non-resident individual or firm is carrying on business in Ontario. It would have been proper to have made an order directing service on Mr. Bice, and in that case it would not have been necessary to have made any order for service out of the jurisdiction. Or if the latter had been made, then substituted service might have been directed on Bice, who would have been served with the notice, etc., just as if he had been the defendant.

What was done was neither the one nor the other, but a combination of both, and therefore irregular. The power to serve process outside the jurisdiction is limited to the provisions of the Rules, which are to be strictly construed; otherwise the proceedings are null and void. See *Piggott v. French*, ante 679, 783.

The only order that can be made is setting aside the proceedings with costs.

CARTWRIGHT, MASTER.

MAY 17TH, 1906.

CHAMBERS.

CLIFF v. NEW ONTARIO S. S. CO.

HEYDER v. NEW ONTARIO S. S. CO.

Third Party Procedure—Indemnity or Relief over—Negligence—Joint Tort-feasors—Motion for Directions as to Trial—Setting aside Third Party Notice.

Motions by defendants for directions as to trial of issues, a third party notice having been served in each action.

W. A. Logie, Hamilton, for defendants.

Casey Wood, for third party.

T. D. Delamere, K.C., for plaintiff Cliff.

T. L. Monahan, for plaintiff Heyder.