

jurisdiction on the defendant, who is described as "at present residing at the city of Vancouver, in the province of British Columbia."

The second paragraph of this order gives liberty to the plaintiff "to file and deliver his statement of claim herein for service with the said writ of summons."

Paragraph 3 provides that service of copies of the writ and statement of claim and of the order—not saying where effected—are to be good service of them on the defendant, and paragraph 4 provides that the time for appearance and for delivery of the statement of defence, if any, by the defendant, is to be within 30 days after the service thereof, inclusive of the day of service.

If the order allows service to be made out of the jurisdiction, the service was, I think, properly made at Vancouver, and the ground on which the learned local Judge set aside the service was untenable.

Con. Rule 162 provides that in certain excepted cases service out of Ontario of a writ or notice of a writ may be allowed by the Court or a Judge, and it was under that Rule that the order was made.

By Con. Rule 164 it is provided that an order allowing service of a writ or notice of a writ out of Ontario shall limit the time for entering appearance, and by paragraph 4 of that Rule it is provided that in regulating the time for entering an appearance regard shall be had to the place where service is to be effected.

There is nothing in either of these Rules which in terms requires that the order shall state the place where the service is to be effected.

In the present case, as I have said, the defendant is described as residing at Vancouver, and there can be no doubt, I think, that the time for appearance was fixed having regard to that being the place where service was to be effected, and that it was intended by the order to allow service to be effected there.

Different considerations would, of course, apply if the service had been effected elsewhere than at Vancouver.

Then does the order allow service to be effected out of Ontario? It does not in terms provide for that being done, but, with some hesitation, I have come to the conclusion that in effect it does so provide. Liberty is given to issue a writ of summons for service out of Ontario on the defendant, "who is at present residing at" Vancouver, and it is ordered that service of copies of the writ and statement of claim on the defendant be good and sufficient service of them on him, and, taking these two provisions