

Stratford to Ogden, for which the plaintiff paid to the Grand Trunk R. W. Co. the sum of \$38.50.

The statement of claim alleges:—

“4. That by the terms of the contract entered into by the Grand Trunk Railway Company of Canada and the plaintiff on the 4th day of June, 1907, the said company agreed to send the plaintiff's goods from Stratford to Ogden, Utah, by the following route; Stratford to Detroit by the Grand Trunk Railway, Detroit to Toledo by the Detroit and Toledo Shore Line Railroad, from Toledo to St. Louis by the Toledo, St. Louis, and Western, from St. Louis to Ogden by the Union Pacific and Chicago Rock Island and Pacific.

“9. That the defendants the Grand Trunk Railway Company of Canada and the Toledo, St. Louis, and Western Railroad are the joint owners of the Detroit and Toledo Shore Line Railroad, and are now operating the same for the mutual benefit of the partnership.”

The plaintiff further alleges non-delivery of the goods and failure on the part of the Grand Trunk Railway Company to locate them. There is no other material allegation in the plaintiff's pleading.

The local Judge held that this pleading disclosed no cause of action against the defendants the Toledo, St. Louis, and Western R. R. Co., and that any cause of action against that company which the plaintiff might contend he has disclosed, must be such that he cannot be permitted to serve his writ out of the jurisdiction.

Mr. Middleton contended that upon the proper construction of the statement of claim it alleged a contract made by the Grand Trunk R. W. Co., on their own behalf and also as agents for their connecting lines, including the Toledo, St. Louis, and Western R. R. Co. He further contended that, by implication, loss of the plaintiff's goods upon the Detroit and Toledo Shore Line Railroad is alleged, and that it is also alleged that this line of railway is owned and operated by the Grand Trunk R. W. Co. and the Toledo, St. Louis, and Western R. R. Co. as partners; that the contract alleged should be taken to have been made on behalf of this partnership, and that, therefore, the Toledo, St. Louis, and Western R. R. Co. is a proper or necessary party to the action against the Grand Trunk R. W. Co., and might properly be served out of the jurisdiction under the provisions of Rule 162 (g).