

against him and Dominion Manufacturers jointly? An additional claim may be made against a defendant not within the jurisdiction if cognate to the primary cause of action. *Bain v. University Estates* (1914), 26 O. W. R. 64.

No fraud or misrepresentation on the part of Dominion Manufacturers is alleged. The primary cause of action is against Patton and his associates and only in the event of Marshall succeeding in his contention will an injunction be granted against the Ontario defendants. The injunction may be cognate to the relief sought against Patton, but the relief sought against Patton cannot, in my opinion, be said upon the material before me to be cognate to the injunction. The case is one which must go to trial here, and when fully presented will enable the presiding Judge to determine whether there is jurisdiction or not as to the principal issue involved. In the meantime the safe course is to afford the defendant Patton an opportunity to shew at the trial that the order for service out of Ontario on him should not have been made.

Appeal dismissed. Costs in the cause.

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HON. SIR JOHN BOYD, C.

MAY 27TH, 1914.

WAGNER BRAISER & CO. v. ERIE Rv. CO.

6 O. W. N. 386.

*Process—Writ of Summons—Agent for Service within Jurisdiction of Corporation Outside Jurisdiction—Rule 23.*

Where a writ was served upon a person described as "General Canadian Agent" and who solicited freight traffic at Toronto for defendant foreign corporation:—

BOYD, C., *held*, that the person served sufficiently carried on the business of the company within Rule 23 to be agent for service within Ontario.

*La Compagnie Generale Transatlantique v. Law & Co.*, [1899] A. C. 431, 433; *Murphy v. Phoenix Bridge Co.* (1899), 18 P. R. 406 and 495; *Thames & Mersey Marine Ins. Co. v. Societa di Navigazione a Vapore del Lloyd Australe* (1914), 30 T. L. R. 475; followed.

Order of MASTER-IN-CHAMBERS affirmed.

Appeal by defendants from an order of Master-in-Chambers, dismissing their application to set aside the service of the writ of summons upon one McGregor for defendants, a foreign corporation.

R. C. H. Cassels, for the defendants.

H. E. Rose, K.C., for the plaintiffs.