

The plaintiff had an establishment in Hamilton, in the county of Wentworth, and part of his business consisted in reshaping ladies' hats for retailers. On the 2nd March, 1914, he sent from Hamilton to the defendant at Orillia a circular letter which requested the persons receiving it to send in old hat shapes to be reshaped, and quoting prices. In response to this, the defendant sent some hats to be reshaped; the plaintiff said that he reshaped them; the defendant said that the hats returned to her were not those which she had sent for treatment.

The plaintiff sued for the price of the work which he asserted that he had performed; and proceeded in the Hamilton Division Court, upon the theory that the whole cause of action arose there. The Judge in the Division Court took the view that the whole cause of action did not arise in Hamilton—that it arose in part in Orillia.

T. N. Phelan, for the plaintiff.

J. M. Ferguson, for the defendant.

MIDDLETON, J., said that, in his view, the sending of the circular constituted part of the cause of action. The plaintiff initiated the transaction by making a quotation of prices in Orillia; and, although this did not amount to a technical offer—*Johnston Brothers v. Rogers Brothers* (1899), 30 O.R. 150—it was an essential ingredient in the "cause of action," as that expression has been consistently defined in the cases.

In another aspect of the case, the writing of a letter accompanying the goods from Orillia was in itself a part of the cause of action: *In re Hagel v. Dalrymple* (1879), 8 P.R. 183. The case of *Cowan v. O'Connor* (1888), 20 Q.B.D. 640, appears to be in conflict with the Hagel case; but the latter is in accord with the policy of the Division Courts Act, which compels the creditor to seek his remedy in the Court of the residence of the debtor, unless the whole cause of action arises in some other division.

Motion dismissed with costs.

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MIDDLETON, J., IN CHAMBERS.

SEPTEMBER 28TH, 1915.

REX v. HIMMELSPACH.

*Liquor License Act—Keeping Liquor for Sale without License—Club—Evidence—Conviction—R.S.O. 1914 ch. 215, sec. 45 (3)—House-boat—"Place" or "Premises."*

Motion to quash the convictions of the above named defendant