

Where, therefore, a benevolent and provident institution refused to recognize a certificate of membership issued to the plaintiff, under which he was entitled to certain insurance benefits, on the ground that he had untruly stated in the application that he was not and never had been subject to asthma, in an action to have it declared that the contract was a subsisting contract production by the defendants was ordered of all applications and medical examinations in which the answer as to asthma had been in the affirmative, and upon which certificates had issued.

*James A. McLean* for the plaintiffs.

*C. Macdougall, Q.C.*, for the defendants.

C.P. Div'l Court.]

[May 25.]

SEARS v. MEYERS.

*Writ of summons—Service out of the jurisdiction—Objection to allowance of—Waiver by appearance—Rule 271.*

Upon a motion to set aside an order allowing service out of the jurisdiction of the writ of summons in an action upon a foreign judgment;

*Held*, that the defendant by entering an appearance had submitted himself to the jurisdiction of the court and waived his right to object to the allowance of service, even though the action did not fall within any of the provisions of Rule 271.

*H. C. McCarthy* for the plaintiff.

*H. M. Mowat* for the defendant.

RUSE, J.]

[June 27.]

PETERSON v. FREDERICKS.

*Parties—Replevin—Adding defendant—Third party—Rules 324, 328, 330.*

J. stored certain goods with the defendant, and the plaintiff brought this action for possession of the goods and damages for their detention, and replevined them.

*Held*, not a case in which J. should be added as a defendant under Rule 324, and not a case for the application of Rule 328; but rather a case in which a notice should be served on him under Rule 330, in order to have him bound by the judgment to be given.

*Masten* for the plaintiff.

*D. Armour* for the defendant.

*W. H. Blake* for Johnston.

Chy. Div'l Court.]

[Sept 9.]

HEATH v. MEYERS.

*Writ of summons—Service out of jurisdiction—Rule 271—Objection to allowance of service—Waiver—Obtaining order for security for costs—Opposing motion for judgment—Decision of court of co-ordinate jurisdiction.*

The plaintiff, a foreigner, sued the defendant, also a foreigner, upon a foreign judgment, and, alleging that the defendant was the owner of lands in