

HON. MR. JUSTICE MIDDLETON. FEBRUARY 28TH, 1913.

*CARVETH v. RAILWAY ASBESTOS PACKING CO.  
LIMITED.*

4 O. W. N. 872 .

*Master and Servant—Wrongful Dismissal—No Incompetence or Misconduct—Unconditional Agreement—Foreign Domicil—Election of by Contract—Jurisdiction of Courts—Con. Rule 162—Public Policy—Costs.*

MIDDLETON, J., *held*, that where an employee is hired for a stated period by an unconditional contract there is no power in the employer to dismiss for mere dissatisfaction, it must be for incompetence or misconduct.

That where by an agreement the parties thereto elect domicil at a place outside the jurisdiction, the jurisdiction of the Court is not thereby ousted, and

*Seemle*, that where under the Rules of Practice an action is cognizable by our Courts an agreement to oust the jurisdiction of such Courts, even if made in a foreign place, is contrary to public policy and void.

*Western Bank v. Perez*, [1891] 1 Q. B. 304, referred to.

An action by an employee for damages for wrongful dismissal. The hiring was under a written agreement, dated 29th March, 1912, made at Sherbrooke, Quebec, where the factory of the defendant company was situated.

The agreement was between the company on the one part, and one King and the plaintiff on the other part. The company employed King and Carveth to introduce, sell and dispose of "goods of the plaintiff, being a certain lubricant then about to be placed upon the market, manufactured under a certain patent granted to the president of the company as inventor." The agreement provided that King and Carveth should place and sell 12,000 shares of the company's capital stock at one dollar per share before the 1st of June, in consideration of which they were to be allowed jointly, two thousand shares at par—presumably paid up. It was then stated that King and Carveth were hired for one year, with the option to the company to extend for a further period of a year if satisfied with the results of their services and work. A commission was then provided upon the amount of the sales; and it was stipulated that King was to work himself in the province of Quebec only and Carveth in Ontario only. "Legitimate expenses" were to be kept to "a minimum figure;" daily reports were to be sent; and, in addition to the commission, King and Carveth