

aside an order allowing the plaintiff to serve the defendant, a foreigner residing out of the jurisdiction. The plaintiff claimed that the cause of action was within Ord. xi., r. 1 (e) (Ont. Rule 271 (e)), viz., a contract "which according to the terms thereof ought to be performed within the jurisdiction." It appeared that the plaintiff was a civil engineer residing in Newcastle, and the contract was made with him by the defendants, who had undertaken to construct docks in Spain, to design and superintend their construction. By the terms of the contract the plaintiff was to prepare drawings and specifications, to take out quantities, and to superintend the construction of the docks, in consideration of a commission of £5 per cent. on the total cost of the works. He was to be paid travelling expenses in connection with his visits, which were fixed at £40 per visit, and the agreed commission was to be paid in cash as follows: £1 10s. per cent. on the contract price of each contract, as and when it was made, and the remaining £3 10s. at the expiration of every three months on the value of the work done during such three months, subject to the retention of a certain amount as security for the performance of the plaintiff's duties, which amount was to be paid within seventy-five days of the final completion of the work. The contract did not expressly provide where the payments were to be made. The action was brought for a balance due under the contract. The Court of Appeal (Lord Esher, M.R., and Lopes and Kay, L.JJ.) were of opinion that, having regard to the position of the parties and the circumstances under which the contract was made, the payments to the plaintiff were to be made at Newcastle, and therefore the defendants might properly be served out of the jurisdiction.

PRACTICE—VENUE—ABOLITION OF LOCAL VENUES—ORD. XXXVI., R. 1 (ONT. RULE 653).

In *Buckley v. Hull Docks Co.*, (1893) 2 Q.B. 93, a Divisional Court (Pollock, B., and Kennedy, J.) arrived at the same conclusion as was reached in *Legacy v. Pitcher*, 10 O.R. 620, viz., that the effect of Ord. xxxvi., r. 1 (Ont. Rule 653), was to abolish all then existing local venues, and the exception, which is contained in the English Rule (but which is omitted from the Ontario Rule), viz., "Except where otherwise provided by statute," only applies to subsequent statutory enactments, and