

the money paid into Court, and may also plead as advised, and plaintiff may then reply. Costs of appeal to be in the action.

Gogo & Stiles, Cornwall, solicitors for plaintiff.

Leitch, Pringle, & Cameron, Cornwall, solicitors for defendant.

JANUARY 3RD, 1902.

DIVISIONAL COURT.

JONES v. BISSONETTE.

*Writ of Summons—Order for Leave to Issue for Service out of Jurisdiction—Will be Granted in a Proper Case and will Fix Time for Appearance—Rules 120, 128, 162 (g), 164—Separate Causes of Action—Joinder of.*

Motion by plaintiff for order permitting issue of a writ of summons for service out of the jurisdiction. The plaintiff carries on business in Toronto, manufacturing a preparation for bronchial affections, called Carbo-Crea, and sells a vaporizer. He was arrested in Toronto by defendant Bissonette on a warrant issued in Montreal on the information of defendant Benedict, charging him with forging a testimonial respecting Carbo-Crea, hand-cuffed in spite of his protest, and taken to Montreal, where he was subsequently tried before a jury and acquitted. The defendant Bissonette is High Constable of Montreal. The defendant Benedict is the manager of the firm of Leeming, Miles, & Co., who are agents for a Vapo-Cresoline Co. The defendant Gibbons is the agent in Ontario of Leeming, Miles, & Co. The action is for malicious prosecution and false arrest, and plaintiff charges conspiracy by the defendants Benedict, Miles, and Gibbons to prevent his manufacturing his preparation, resulting in the laying of the information, the arrest, the hand-cuffing, and trial in Montreal. The Master in Chambers referred the motion to a Judge in Chambers, and upon its coming before Boyd, C., he referred it, on account of his decision in *Oligny v. Beauchemin*, 16 P. R. 508, to a Divisional Court. W. R. Riddell, K.C., for plaintiff.

The judgment of the Court (STREET and BRITTON, JJ.) was reserved, and subsequently delivered by STREET, J.—The proper practice under the Rules as they now stand is to obtain an order fixing the time for appearance in a writ proposed to be issued, and allowing it to be served outside the jurisdiction before the writ is issued. Reasoning from the terms of Rules 120, 128, and 164, it is evident that before the writ referred to can be issued it is necessary to obtain an order limiting the time for appearance, which order must also give leave to serve the writ out of the jurisdiction. Upon