

like state of facts, had the position of matters been reversed. The practice there would not permit it. Assuming the truth of the facts set out in the statement of claim, where was the tort "committed?"

Rourk v. Wiedenbach, 1 O. L. R. 581, is more like the present case than any other I know of. Counsel for the plaintiff sought to distinguish it upon the ground that if the bailee of the picture knew the terms upon which the bailor held it, the wrong done was to the property of the plaintiff, which was at that time in Quebec; that here the wrong was to the person of the plaintiff. It seems to me that the mere fact of plaintiff receiving his injury in Ontario is not conclusive that the wrong of defendants was committed here—their tort was in manufacturing in Scotland the alleged defective fuse. The moment it left their hands, it may be said a tort was committed. The final stage, the explosion and injury, is only the evidence of the wrong, or defective manufacture of the fuse in question.

The cases cited by the Master are all interesting, but, after all, throw little light upon the application of Rule 162 (e). I am unable to bring myself to believe that the Rule was ever intended to apply to a case like the present, or that it in fact does apply; the result of its application would be altogether too far-reaching.

In my opinion, the learned Master properly set aside the order, and the appeal is dismissed with costs.

TEETZEL, J.

NOVEMBER 7TH, 1906.

WEEKLY COURT.

BOHAN v. GALBRAITH.

*Vendor and Purchaser—Contract for Sale and Purchase of Land—Specific Performance—Correspondence—Agent—Completion of Contract—Subsequent Formal Offer to Purchase and Refusal—Effect of.*

Motion by plaintiff for judgment on pleadings and admissions filed in an action for specific performance.

J. A. Paterson, K.C., for plaintiff.

W. E. Middleton, for defendant.