

though the Rules which were replaced by them made provision for allowing service, not only of a writ of summons and notice of a writ, but also of any other document by which a matter or proceeding is commenced.

The Ontario Judicature Act, 1881, gave to the High Court of Justice the jurisdiction which at the commencement of that Act was vested in or capable of being exercised by, among other Courts, the Court of Queen's Bench, the Court of Chancery, and the Court of Common Pleas (sec. 9), and therefore the jurisdiction to allow service out of Ontario conferred by R. S. O. 1877 ch. 40, secs. 93, 84, and ch. 50, secs. 49, 50, was vested in the High Court.

I was at one time inclined to think that the effect of this was to make the English cases inapplicable here, but the reasoning which led to the decision in *In re Busfield* is opposed to that view; and I am, therefore, of opinion that our Judicature Act and Consolidated Rules form a complete code on the subject of service out of the jurisdiction, and that the Court had no jurisdiction to allow service of the statement of claim to be effected upon the applicants out of Ontario.

Even if I had been of a different opinion, an order for service out of Ontario not having been obtained, I should have held that the service which was effected was nugatory, and that the Judge had no power to allow service *nunc pro tunc*, as he assumed to do.

It is a defect in the law that no provision is made for service out of the jurisdiction of the initial proceeding in an action unless that proceeding is a writ of summons or a notice in lieu of a writ of summons.

Application granted with costs here and below.

Clarke, Cowan, Bartlet, & Bartlet, Windsor, solicitors for applicants.

Fleming, Wigle, & Rodd, Windsor, solicitors for plaintiff.

ROBERTSON, J.

APRIL 10TH, 1902.

WEEKLY COURT.

RE REX v. MEEHAN.

*Mandamus—Police Magistrate—Jurisdiction—Information—Criminal Offence—Municipal Election—Voting more than once.*

Motion by the prosecutor, A. D. Turner, to make absolute a rule calling on the police magistrate for the city