

deliver their statement of defence, if any, within 8 days after such amendment, if any, by the plaintiffs; and, further, that the costs of the application be payable by the defendant to the plaintiffs in any event of the cause.

From this order the plaintiffs appeal on the grounds: (1) that the local Judge at Fort Francis for the district of Fort Francis had no jurisdiction to make said order; and (2) that the township of McIrvine was improperly added as a party defendant against the will of the plaintiffs.

The plaintiffs contend that under Con. Rule 45 of the Supreme Court of Judicature for Ontario, this action having been brought in the original provisional judicial district of Rainy River, of which Kenora was the district town, the local Judge at Fort Francis had no jurisdiction to hear the motion and make the order appealed from.

I think this contention on the part of the plaintiffs is correct. I do not think that the mere fact that the venue was laid at Fort Francis, which, at the time the statement of claim was filed, had become the district town for another judicial district, gave the local Judge of such district jurisdiction, even though the new district at the time the writ itself was issued was part of the original judicial district. Neither do I think, upon the facts disclosed before me, that the defendant has brought himself within the scope of Rule 47.

It was contended on the part of the defendant that, under Rule 48, I had no jurisdiction, sitting in Chambers, to hear this appeal. I think, however, that under Rule 767 I have the power to do so. The appeal will therefore be allowed with costs, to be payable to the plaintiffs in any event of the cause.

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BOYD, C.

FEBRUARY 14TH, 1909

GILLETTE v. REA.

*Patent for Invention—Sale of Patented Article—Restriction as to Price—Patent Act. sec. 38—Condition on Purchase—Injunction—Evidence.*

Motion by the plaintiff to continue till the trial an injunction granted ex parte restraining the defendants from selling the Gillette safety razor at a lower price than \$5 and Gillette safety razor blades at a lower price than \$1 per dozen.

G. F. Henderson, K.C., for the plaintiff.

J. A. Ritchie, for the defendants.