

MIDDLETON, J., IN CHAMBERS.

APRIL 26TH, 1918.

*BOSTON LAW BOOK CO. v. CANADA LAW BOOK CO.
LIMITED.

*Parties—Addition of Defendants—Rule 67—Improper Joinder—
Distinct Contracts between Different Parties—Service on Added
Defendants out of the Jurisdiction—Rule 25 (8)—Discretion—
Service Set aside.*

Appeal by W. Green & Son Limited and Stevens & Sons, Limited from an order of the Master in Chambers refusing to set aside the service of the writ of summons and statement of claim upon them, pursuant to an order made by the Master allowing the plaintiffs to amend the writ of summons and statement of claim by adding the appellants as defendants, making a claim against them, and permitting service upon them out of the jurisdiction—one of the added defendants carrying on business in Scotland and the other in England.

R. H. Parmenter, for the appellants.

Alfred Bicknell, for the plaintiffs.

R. T. Harding, for the original defendants.

MIDDLETON, J., in a written judgment, said that the plaintiffs were agents for the sale in America of a legal work published by the two appellant companies jointly, and made an agreement to take a certain number of sets at a stipulated price per volume. The plaintiffs, as part of their plan for disposing of the work, entered into an agreement with the original defendants to sell them a certain number of sets at a named price. This agreement was made on the faith of the prospectus issued. The original defendants were made "agents" for Canada. The copies intended for Canada were sent direct from the publishers to the original defendants, but these defendants had no contract with the publishers.

The plaintiffs sued the original defendants for the price of certain copies of volumes which had been delivered; these the defendants declined to pay for, alleging that there had been a departure from the prospectus—the number of volumes being increased and the number of pages to a volume decreased. The original defendants asked, by counterclaim, a declaration that they were entitled to the remaining volumes without further payment. As against the added defendants (the publishers) the plaintiffs, by their amended statement of claim, asked that,