

quiring particulars to be given. Even more of the statement of claim might be struck out without prejudice to the plaintiff's alleged cause of action. It was quite clear that the statement of claim even yet contained irrelevant matter, which, of course, could be dealt with by the trial Judge when evidence was offered. Appeal dismissed. Costs in the cause to the defendant. J. P. MacGregor, for the plaintiff. M. H. Ludwig, K.C., for the defendant.

AUBURN NURSERIES LIMITED v. MCGREDY—BRITTON, J., IN CHAMBERS—OCT. 22.

Writ of Summons—Service out of the Jurisdiction—Contract—Breaches—Assets in Jurisdiction—Conditional Appearance—Rule 48.]—Appeal by the defendant from the order of HOLMSTED, Senior Registrar, acting for the Master in Chambers, ante 104, dismissing an application of the defendant to set aside the order allowing service out of the jurisdiction of the writ of summons and the service of the writ. The learned Judge said that he had read the correspondence between the parties, and looked at all the cases cited; and, upon the facts disclosed, and upon the authorities, this case was one in which, pursuant to Rule 48, leave should be given to the defendant to enter a conditional appearance. Apart from any question of the contract or breach of it, or of a new contract, as the plaintiffs alleged that they should, at the cost of the defendant, care for the property, the plaintiffs contended that the defendant had property within Ontario to the amount of over \$200. That property was the property in reference to which this action had been brought. To determine now that it belonged to the defendant was premature, and the learned Judge was not called upon so to determine on the material before him. Appeal allowed to the extent of permitting the defendant to enter a conditional appearance. Costs of the appeal and of the defendant's motion before Mr. Holmsted to be costs in the cause. H. W. Mickle, for the defendant. A. C. McMaster, for the plaintiffs.