refused the application, and the Court of Appeal affirmed his order. Their Lordships in the House of Lords unanimously reversed the Court of Appeal and held that the action was really founded on the breach of the contract which had taken place out of the jurisdiction, viz., the failure to ship the goods and that the non-tender of documents was merely ancillary to the part to be performed out of the jurisdiction, and was not such a breach as would justify the Court in authorizing the service of the writ out of the jurisdiction. The Lord Chancellor points out that the Rule in question is discretionary, "service may be allowed, etc.;" the same remark is applicable to Ont. Rule 25.

INSURANCE (MARINE)—HIRE OF DRY DOCK—AGREEMENT TO INSURE AGAINST MARINE RISKS—SINKING OF DOCK—ABSENCE OF MARINE RISK—OMISSION TO INSURE—MEASURE OF DAMAGES.

Grant v. *Seattle Construction Co.* (1920) A.C. 162. This was an appeal and cross-appeal from the Court of Appeal of British Columbia. The plaintiffs in the action had let to the defendants a dry dock and by the agreement it was admitted by the defendants that the dry dock was seaworthy and fit for the work for which it was intended to be used, and the defendants agreed to keep it insured for $75,000 for the benefit of the plaintiffs, and to redeliver it in equally good condition save for wear and tear. While the dock was being used by the defendants, owing to its inherent unfitness for the work, it capsized and sank and became a total loss—the accident was not due to any marine risk. The defendants had failed to insure the dock as agreed and its actual value was only $34,500. The plaintiffs recovered judgment for this amount and $10,000 for the hire. The defendants appealed on the ground that they were induced to enter into the contract by fraud and consequently were not liable for anything, and further that the dock was of no value and could not honestly be insured as agreed. The plaintiffs appealed on the ground that in lieu of $34,500 they were entitled to recover $75,000. But the Judicial Committee of the Privy Council (Lords Buckmaster, Parmoor, and Wrenbury) dismissed both appeals, as to the plaintiff's appeal on the ground that as the dock had not been lost by any marine risk the measure of damages for the omission to insure was purely nominal; and as to the defendants' appeal on the ground that the fact of fraud having been negatived at the trial, and also by the Court of Appeal, it would be contrary to the established practice of the Board to reinvestigate the evidence on that point. The judgment appealed from was therefore affirmed.