

in writing. Accordingly, the Divisional Court, in the Canadian case, held that judgment should be entered for the plaintiff for three hundred dollars with costs.

"The decision is one which seems to be in accordance with one already in the Canadian Law Reports (*Canadian Bank of Commerce v. Perran*, 31 O.W.R. 116), and it seems to mark a departure from a long line of American cases. It would appear as though some confusion has arisen in these latter cases through a lack of distinction between the words "void" and "voidable" but the American decisions seem somewhat variable. The case brought to our notice in the CANADA LAW JOURNAL seems to have abundant support in English decisions but we rather gather that it marks a departure from the accepted law obtaining in Canada. It would seem as though the Canadian decisions had been influenced by the current, albeit a variable current, of American opinion. We should be glad to see any doubts as to the validity of such alternative agreements solved in similar lines in the case of all English speaking communities, for the Statute of Frauds is one of those measures which seems essential to their well-being in all matters coming within its scope."

Conclusion.

In view of the opinion of these eminent English authorities it will probably be thought therefore that the question cannot be considered as free from uncertainty, and as it touches so important a matter as the Statute of Frauds; which as the *Law Times* says is "one of those measures which seems essential to the country's well-being," it seems highly desirable that some means should be found either by Legislative action or otherwise to have the law upon the subject elucidated in an unambiguous manner. The question of course is whether the Statute of Frauds can be evaded by the simple expedient above indicated. If the views of the London *Law Times* and the *Law Quarterly* above set forth may be taken as a correct exposition of the English law on the subject it should seem that according to the law of that country it cannot. In Ontario on the contrary while the case of *Mercier v. Campbell* (*sup.*) stands it would seem that it can, and that the answer to the question that heads this article must, for the present at all events for all practical purposes, be in the affirmative.