

against three defendants, Kerr, Marshall, and Crowe, who, according to the statement in the writ of summons, all resided in Ontario. The writ as issued was for service in Ontario only, but the plaintiff took it away with him to New York, and there assumed to serve the defendants Marshall and Crowe. No appearance being entered, the plaintiff signed judgment and issued execution. The defendant Crowe moved to set aside the service and all proceedings in the action. Held, that the service was a nullity, not being made pursuant to an order, under Con. Rule 162, permitting service out of the jurisdiction: Pennington v. Morley, 3 O.L.R. 514. Since Metcalf v. Davis, 6 P.R. 275, the practice has been changed: Holmsted and Langton's Judicature Act, 3rd ed., p. 295, and 2nd ed., p. 277. Order made setting aside the service of the writ and all subsequent proceedings. If the plaintiff wishes to continue the action against the defendant Crowe, he must proceed in the regular way within ten days, and in that event costs of this motion will be to the defendant Crowe in any event. If the action is not proceeded with, the costs will be payable to that defendant forthwith.

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BROOKS v. CATHOLIC ORDER OF FORESTERS—SUTHERLAND, J.—  
FEB. 15.

*Life Insurance—Benefit Certificate—Infant Beneficiaries—Payment to Executors of Assured—Powers under Will.*—Motion by the plaintiff for judgment on the pleadings in an action by the executors and trustees under the will of Timothy J. Hayes to recover \$1,000, the amount of an insurance upon the testator's life under a benefit certificate issued by the defendants, made payable to the testator's two sons, who were infants. Besides appointing the plaintiffs executors and trustees, the testator provided in his will: "In so far as I have power so to do, I appoint said trustees guardians of my children, with power to demand and receive the moneys payable to them" under the benefit certificate. The question to be decided was, whether the plaintiffs were entitled to receive the insurance moneys, or whether the defendants could insist upon a Surrogate guardian being appointed, to whom the moneys could be paid, and from whom a release to the defendants could be obtained. Held, following Dicks v. Sun Life Assurance Co., 20 O.L.R. 369, 1 O.W.N. 178, 461, that the moneys should be paid to the plaintiffs under the terms of the will. Judgment for the plain-