are further agreed that it is neither necessary nor desirable that we should reserve the case merely for the purpose of adding to the literature on the subject.

The decision which we arrive at is not at all founded on the apparent hardship of the plaintiffs having to pursue individual underwriters into all the financial centres of Europe. It is based on what we consider the clear view of the law and practice.

There are two policies here, as to one of which the defendants admit that they have to submit to the jurisdiction of the Ontario Courts. As to the other one it is for £5,145, which, by a written marginal note is declared to be equivalent to $25,000, the £1 sterling being taken at $4.86, the marginal note reading as follows, "£5,145 at ex. 4.86 = $25,000"—counsel for the defendants has endeavoured to persuade us that there is no contract to pay this one in this country.

Two judicial officers have exercised their discretion on this motion, and, in our opinion, rightly. It seems to us that the cases of *Canadian Radiator Co.* v. *Cuthbertson,* 9 O. L. R. 126; *Blackley Limited* v. *Elite Costume Co.,* 9 O. L. R. 382, and *Kemerer* v. *Watterson,* 20 O. L. R. 451, govern.

Not only is it a matter of doubt as to whether this contract is to be performed in Ontario, but I should think, without saying anything to prejudge the issue, it is quite arguable that the order appealed from is right: (1) by reason of the marginal note in the policy, which I have already referred to: and (2) from the fact that it is stamped with an agent's name, as referred to by Mr. Justice Clute. It is also suggested that the defendants have property in this country. However this may be, there is so much doubt in the case that the matters should be tried out in the cause, and not simply on affidavits. The practice is in substitution of the old common law practice requiring the plaintiff to undertake to submit to a nonsuit unless he proved a cause of action arising within the jurisdiction.

Appeal dismissed with costs to the plaintiffs in any event.