

reason of any claims made in respect of personal injuries sustained by their employees. Defendants' factory is at Sandwich, Ontario. The Standard Life and Accident Insurance Company are an American company, not licensed to do business in Ontario, and having no place of business or agent in this province. . . .

Whatever claim defendants may have against the insurance company, arising or to arise out of the action brought against them by plaintiff, is, in my opinion, a claim for indemnity or other relief over, within the purview of Rule 209. This is certainly the case as to any damages to which plaintiff may be found entitled, and the costs to which defendants may be put seem to be also within the scope of the loss against which they are to be protected. It is true that the right to payment will not accrue until plaintiff has judgment against defendants, and, it may be, by reason of a special provision of the policy, not until defendants have actually paid such judgment. This may prevent defendants from obtaining, by the prosecution of third party proceedings, a judgment or order for payment against the insurance company. But, if this procedure were for that reason to be held wholly inapplicable, its main purpose would be frustrated. "The object of the Act," says Blackburn, L.J., in *Benecke v. Frost*, 1 Q. B. D. 419, 422, "was not only to prevent the same question being litigated twice, but to obviate the scandal which sometimes arose by the same question being differently decided by different juries." See, too, *Wilson v. Boulter*, 18 P. R. 107, 109. It is obviously important that the ascertainment of the amount of damages to which plaintiff may be entitled, as well as the determination of the liability of defendants to pay such damages, should be effected in a proceeding that will bind, as to these issues and the findings of fact on which they depend, the insurance company as well as the defendants.

If the insurance company were an Ontario corporation, I see no difficulty in the way of their being brought in as third parties. Nor does the fact that they are a foreign corporation present any insuperable obstacle. Though not doing business here, nor licensed by the Ontario government, they may be sued in this province upon any contract which they have made, to be performed within Ontario, and which has been broken within the province: Rule 162 (e). The fact that, in doing such business without an Ontario license, they