

MIDDLETON, J.

SEPTEMBER 24TH, 1915.

ANDERSON v. CANADA FURNITURE MANUFACTURERS
LIMITED.*Trial—Preliminary Trial of Issue of Law—Refusal of Order for
—Convenience—Expense—Delay.*

Motion by the plaintiff for an order directing the trial, as a preliminary issue, of the question raised by the pleadings as to the competency of the Legislature of Ontario to pass the Act 4 Geo. V. ch. 128, confirming a resolution of the defendant company, attacked by the plaintiff in this action.

George Bell, K.C., for the plaintiff.

Glyn Osler, for the defendant company.

MIDDLETON, J., said that when demurrers were abolished it was because it was thought that in the great majority of instances questions of law should not be determined until the facts were ascertained. Where, as here, the question of law appears to be quite independent of the questions of fact, the situation is somewhat different; but the separate trial of the two branches of a case may result in two series of appeals, with their incidental delays; and, unless the legal issue is so plain that there is good reason to suppose that it will not be carried beyond the Court of first instance, the order ought not to be made. The desirability of as speedy and final a determination as possible, and the risk of the costs of a double set of appeals, entirely preponderates over any convenience that there might be in avoiding the expense incident to the preparation for trial and the trial of all the issues.

Motion refused; costs in the cause.

MIDDLETON, J.

SEPTEMBER 24TH, 1915.

*RE RUTHERFORD.

Executors and Administrators—Claim upon Estate of Intestate—Promise to Provide for Claimant by Will—Corroboration—Services of Claimant—Wages—Statute of Limitations—Waiver by Administrator—Rights of Next of Kin—Allowance of Claim by Surrogate Court Judge—Surrogate Courts Act, R.S.O. 1914 ch. 62, sec. 69 (5)—Contest in Court—Remuneration Confined to six Years.

Appeal by the next of kin from the decision of the Judge of the Surrogate Court of the County of Haldimand, upon passing the accounts of the administrator of the estate of one Ruther-