

nesses, two of whom lived in Toronto. The Master said that the increased expense in witness fees by reason of a trial at Hamilton, instead of Toronto, would be only \$20—and that was not sufficient to take away from the plaintiff his right to have the trial at Hamilton. There are, besides, serious objections to bringing a case from outside to Toronto; to do so almost inevitably increases the expense: *Saskatchewan Land and Investment Co. v. Leadlay*, 9 O.L.R. 526. Motion dismissed; costs in the cause. Frank McCarthy, for the defendants. H. E. Rose, K.C., for the plaintiff.

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BROOKS v. CATHOLIC ORDER OF FORESTERS—SUTHERLAND, J.—  
MARCH 2.

*Costs.*]—In the note of this case, ante 771, it is stated that the costs of all parties were ordered to be paid out of the fund. The judgment was afterwards varied as to costs by the learned Judge. The plaintiffs' costs to be payable out of the fund; no costs to the defendants.

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TELFORD v. SOVEREIGN BANK OF CANADA—TEETZEL, J.—  
MARCH 2.

*Contract—Construction—Sale of Business—Covenant of Purchasers to Make Annual Payments—Proviso as to Reduction in one Event—Average of Deposits in Bank.*]—Motion by the defendants (the plaintiffs consenting to the motion being entertained) for an adjudication upon a question overlooked by the defendants upon the trial of this action, after which the plaintiffs were awarded a judgment for \$1,750: 1 O.W.N. 822. The defendants asserted that the judgment should have been for only \$1,400, that is, a payment to each of the plaintiffs of \$200, instead of \$250, under the agreement between the plaintiffs and defendants whereby the plaintiffs sold and transferred their private banking business at Owen Sound to the defendants. The question arose under a clause in the agreement by which the defendants undertook to pay each of the members of the firm of Telford & Co. \$250 per annum for ten years, provided that if the deposits to the credit of the customers of the branch bank at Owen Sound should not amount to the steady average of \$400,000 on or before the 1st June, 1908, the amount should be