

with respect to the estate of the deceased made by some one claiming title under him. The claim here was a claim made against the deceased and against his estate.

Lord Westbury's statement in *Enohin v. Wylie* (1862), 10 H.L.C. 1, at p. 13, places the matter more favourably to the contention of Rachel Eby than any other authority, but it falls far short of being a statement that the proper forum for the adjudication of all claims made against the estate of a deceased person is the Court of his domicile.

The shares of the Ford Motor Company of Canada have a local situs in Canada, and *primâ facie* the title to the shares ought to be determined by a Canadian Court. The only foundation for jurisdiction in the Court of Michigan would be that indicated in *Penn v. Lord Baltimore* (1750), 1 Ves. Sr. 444, and repeatedly affirmed in other cases—the jurisdiction of the Court over the person of the defendant.

Had Fenwick died testate, so that the property vested in his executors, if the executors were subject to the jurisdiction of the Michigan Court, the action might well be maintained there; but the case was entirely different—the title was in the Ontario administrators, even though the Ontario letters of administration should be regarded as ancillary.

An issue should be directed to be tried for the purpose of determining the title to the shares and the proceeds of shares; Rachel Eby to be plaintiff in the issue, the onus being upon her; the trial to be at Sandwich, subject to application for a change; costs and further directions to be dealt with by the trial Judge.

A sale of the shares should not be directed while the title is in doubt.

---

SEXSMITH v. McMATH—FALCONBRIDGE. C.J.K.B.—Nov. 24.

*Malicious Prosecution—Reasonable and Probable Cause—Honest Belief of Defendant in Guilt of Plaintiff—Reasonable Grounds—Advice of County Crown Attorney—Malice—Indirect Motive—Counterclaim.*—An action for malicious prosecution, tried (by consent) without a jury, at Belleville. The defendant laid an information against the plaintiff charging that the plaintiff did, "unlawfully, fraudulently, and without colour of right, take, or, fraudulently and without colour of right, convert to his own use, one yearling bull (colour black and white), the property of James McMath," the defendant, "with intent to deprive him, the said James McMath, temporarily or absolutely of