HON. MR. JUSTICE RIDDELL:—Until the decision of Mr. Justice Mabee in *Re Wilcox* v. *Stetter* (1906), 7 O. W. R. 65, it was considered almost as of course that a cause would be removed into the High Court where the value of the property was over $2,000, and there was a real dispute. In that case a halt was called to this practice, and a rather more stringent rule was supposed to be laid down. This case I followed in *Re Graham* v. *Graham* (1908), 11 O. W. R. 700 "without expressing any independent opinion of my own" and the Chancellor in *Re Reith* v. *Reith* (1908), 16 O. L. R. 168, says: "It is enough if it appears from the nature of the contest and the magnitude of the estate that the higher Court should be the forum of trial. No doubt, much is left to the discretion of the High Court Judge as to the disposal of each application."

I have had an opportunity of consulting a number of my judicial brethren, and the general consensus of opinion is that where a fair case of difficulty is made out so that there will be a real contest the case should be removed if the amount of the estate brings the case within the statute. There is one reason which has its influence on my own mind as it has on the minds of some of my brethren—if the case is removed the opinion of the highest Provincial Court may be taken, while if the matter remain in the Surrogate Court, this cannot be done.

The only objection to removal is the costs, but the trial Judge has full power to award if he sees fit, only Surrogate Court costs.

An order will go in the usual form, removing the cause into the High Court of Justice. Costs in cause unless otherwise ordered.

MASTER IN CHAMBERS. MAY 28TH, 1912.

MADILL v. GRAND TRUNK RW. CO.

3 O. W. N. 1333.

Particulars — Statement of Claim — Negligence Action — Death in Railway Accident—Res Ipsa Loquitur—Discovery.

Action brought to recover damages for the death of plaintiff's husband through an accident on the defendant company's railway on 16th June, 1911.