I will dispose of this last point at once. There were a lot of newspaper clippings deposited with the exhibits. I am prepared to assume that they make out a clear case against somebody. I have not opened the envelopes containing them. Whether there is good ground for suspicion or not, I do not know; but this much is clear that there is no evidence whatever that Johnston murdered his wife—if in fact she is dead. On the contrary, a statement attributed to Johnston—most improperly insisted upon and elicited by the plaintiff's counsel, one of a long list of transgressions of this kind—if it were evidence at all, but it is not, would establish that Mrs. Johnston died by her own hand. . . Accepting and acting upon the presumption of Mrs. Johnston's death, I find and declare that when the property is administered in Canada the defendant will be entitled to be allowed one-half the value of the farm—to be increased or decreased by rent, improvements, and other items of account.

What is the position of the plaintiff? On the facts, as they are in evidence before me, she was not entitled to either probate or administration at the time she issued the writ. As it turns out, she was not entitled to a grant of probate at all, and the sealing in Ontario, if desired, will be annulled. It is true that, contrary to the view at one time entertained, it is sufficient now if administration is procured before the case comes on for trial: Trice v. Robinson (1888), 16 O.R. 433; and Dini v. Fauquier (1904), 8 O.L.R. 712, where the cases are discussed. And, when granted, the administration relates back to the date of the death: In the Goods of Pryse, [1904] P. 301. And where steps have been taken promptly, and administration applied for, the Court may even grant an injunction so as to preserve the property until administration can be obtained, as was done, at the instance of the sole heir-at-law, in Cassidy v. Foley, [1904] 2 I.R. 427. But here administration has not even been applied for, and the plaintiff has been fighting against the suggestion of intestacy. Two of the heirs-at-law are not before the Court, but this in itself is not a serious objection. The other questions are; and the plaintiff is not in a position to maintain this action.

But, on the other hand, further litigation should be avoided if possible. To dismiss the action is not going to benefit the defendant in the end. The parties should get together, and, with or without my assistance, come to a settlement. In the interest of all parties, a reference and judicial sale should be avoided.

If the two outstanding shares can be got in—the defendant's title confirmed—and he pays to the plaintiff and other parties entitled one-half the value of this part of the estate, the rent