

testator, namely, three nieces and five nephews, may be more or less than the real number at that time.

Costs of all parties out of the estate, those of the executors as between solicitor and client.

---

BRITTON, J. IN CHAMBERS.

MAY 28TH, 1913.

RE EMMONS v. DYMOND.

*County Courts—Removal of Cause into Supreme Court of Ontario—County Courts Act, 10 Edw. VII. ch. 30, sec. 29—“Fit to be Tried in the High Court”—Reason for Transfer.*

Application by the defendant for removal of this action from the County Court of the County of Middlesex to the Supreme Court of Ontario.

E. C. Cattanch, for the defendant.

R. U. McPherson, for the plaintiff.

BRITTON, J.:—The County Courts Act, 10 Edw. VII. ch. 30, is the Act now in force. Section 22, sub-secs. 3, 5, and 6, and sec. 23, make provision for the transfer of cases from a County Court to the Supreme Court of Ontario, where the facts are as stated in these sections and sub-sections.

Section 29 governs as to what cases and on what conditions causes may be removed, where sec. 22 and its sub-sections and sec. 23 do not apply.

This application must be considered as made under sec. 29. The words “fit to be tried in the High Court” mean, I think, “that ought to be tried in the High Court rather than in the County Court;” and I cannot say that a reason for transfer, or for certiorari, has been shewn. See *In re Aaron Erb* (No. 2), 16 O.L.R. 597; *Re Hill v. Telford*, 12 O.W.R. 1056.

The motion will be dismissed; costs in the cause. This will be without prejudice to any order the County Court Judge may make as to any amendment, or as to the trial, or any matter in the disposition of the case by him.