

can be more effectually tried and disposed of in the High Court of Justice than in the Surrogate Court."

Defendants oppose the removal of the cause, and their solicitor files an affidavit stating that in his belief the matters in question are such that they can be properly tried in the Surrogate Court; he does not state what these matters are, neither affirming nor denying that the questions are as set out in the affidavit of plaintiff's solicitor. The valuation of the estate, according to the schedule filed, is stated at \$2,150.

Section 34, sub-sec. 2, of R. S. O. 1897 ch. 59, provides that "no cause or proceeding shall be so removed unless it is of such a nature and of such importance as to render it proper that the same should be withdrawn from the jurisdiction of the Surrogate Court and disposed of by the High Court, nor unless the property of the deceased exceeds \$2,000 in value."

Ample machinery is provided by the Surrogate Courts Act and Rules for the trial of issues such as this, and I think all such cases should be left for trial in the Surrogate Court which do not clearly and beyond reasonable question fall within the above section.

How can it be said from the foregoing affidavit that this cause is of such a nature and importance that it should be withdrawn from the Surrogate Court?

The last alleged ground of opposition by defendants may be discarded entirely, as that could form no ground for withholding probate; and the others are simply the usual questions that are presented in almost every issue of this sort; and there are no facts connected with any of these alleged issues set out in detail in the material, upon which I can say this particular cause is of "such a nature and importance" that renders its removal into the High Court proper.

I think the Court must be furnished with the facts connected with each case when applications of this sort are made, to enable a clear conclusion that it comes within the section.

I have the less hesitation in refusing this application, as the amount involved is so near the statutory limit; otherwise I might give the applicant an opportunity of supplementing his material.

Motion dismissed with costs.