

Action by plaintiff for a declaration that she was one of the next of kin of Edward Woods, deceased, and as such entitled to a share of his estate.

V. A. Sinclair, for the plaintiff.

W. H. Barnum, for the defendant.

HON. MR. JUSTICE RIDDELL:—This case tried before me without a jury at St. Thomas, afforded a spectacle none too common, and, therefore, the more pleasant—parties on either side cordially admitted—or rather asserted—the good faith of their opponent, and also the perfect honesty and good faith of the witnesses on the other side. There was no contradiction in the evidence. I was struck by the candour and transparent honesty of all the witnesses examined and found, and find that they not only tried to tell the exact truth, but also that they succeeded (in all matters within their knowledge) in doing so. I would add that though it was what may without much violence to language be called a “family” dispute, and that it was in substance a dispute about sharing a dead man’s estate, still there was no evidence of bitterness or ill-will exhibited by any party—and counsel conducted the case throughout with skill and courtesy.

One Edward Woods died in October last, intestate and without issue, never having married. He had had a brother, but he had predeceased him, and Edward Woods left no brothers or sisters or descendants of either. He was the son of James H. Woods, who was the son of Harvey Woods and Penelope Ovton, his wife. Harvey Woods and Penelope Woods had many years ago came into Upper Canada from the State of New York, with a family in which were James H. Woods, Melinda Woods (afterwards Mrs. Livingston), and Caroline Woods (afterwards Mrs. Cook).

There was also treated as one of the family, a girl, always known as Sarah Woods. She became the wife of Thomas Cascadden, and had issue, Amanda Cascadden, who became Mrs. Amanda Brown. Mrs. Livingston and Mrs. Cook both left issue.

It is apparent then that if Sarah Woods was the sister of James H. Woods, her daughter, Mrs. Amanda Brown is entitled to share in the estate of Edward Woods; as she in that case would be a cousin german, and stand in the same relationship to the decedent as the children of Mrs. Livingston and of Mrs. Cook. This being a matter of pedigree by