

29 of the Evidence Act relates only to public documents kept within the jurisdiction of the Court, because the officer in charge of them is ordered to furnish copies. The estate to be administered is a very considerable one, and the facts upon which its distribution depends are too complicated to be determined upon a summary application of this nature. Sub-section (h) of Rule 938 should only be applied to simple questions of fact, as to which there is little or no room for dispute. Upon the alternative application of the administrators, an order may issue for the administration of the real and personal estate of the deceased, treating the motion as made for that order merely.

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FALCONBRIDGE, C.J.

JULY 7TH, 1903.

CHAMBERS.

NOEL v. NOEL.

*Partition—Dispute as to Title—Summary Application—Leave to Bring Action.*

Motion by plaintiff for order for partition or sale of lands.

W. J. Tremear, for plaintiff.

F. J. Roche, for defendant J. J. Noel.

F. W. Harcourt, for infant defendant.

FALCONBRIDGE, C.J.—Defendant J. J. Noel disputes the right to partition, on the ground that he is the beneficial owner of the land. The burden of proof is on him, the registered title being in the name of his late wife. He may bring an action to establish his claim before 15th September next. Should he not do so, the order for partition will issue on that day.

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MACLAREN, J.A.

JULY 7TH, 1903.

WEEKLY COURT.

ASSELSTINE v. FRASER.

*Waste—Life Tenant—Tenant in Common—Cutting Timber—Account—Statute of Limitations.*

Motion by plaintiffs for judgment on the pleadings and admissions. Michael Asselstine, of Ernesttown, died on the 9th October, 1870, seised of about 300 acres of land in that township, which he devised to his two daughters Sarah Ann and Elizabeth as tenants in common. They remained in joint possession until 5th May, 1885, when Sarah Ann died, leaving a will by which she devised her undivided half interest to her mother and her sister for their natural lives,