

died in London, Ontario, but his domicile was in Manitoba. The ground for the motion was, that the estate, remaining in the hands of the executor, consisted of moneys on deposit in Ontario, where he also resided.

The application was heard in Chambers at London.

U. A. Buchner, for the executor.

J. F. Faulds, for Mary Sawyer, Robert Porter, and Rosenbuch.

H. B. Elliott, K.C., for Margaret Marshall and James Porter, supported the motion.

MASTEN, J., in a written judgment, said that the application must be refused, for the following reasons:—

(1) The subject-matter was peculiarly within the jurisdiction of the Manitoba Court. The testator was domiciled there. His estate was principally there—none of it was in Ontario. Probate was granted in Manitoba, and the executor was an appointee of the Surrogate Court of Manitoba. No probate had been issued in Ontario.

(2) The management of the estate was in Manitoba; and, if mismanagement or neglect took place in connection with the realisation of the estate, it would be proved by evidence in Manitoba.

(3) More than one-half in value of the beneficiaries were in Manitoba, and a common order for administration of the estate was granted there, before this application was launched. That order was made on notice to the executor, who appeared to oppose it, and thus attorned to the jurisdiction of the Manitoba Court, if any attornment was necessary, in these circumstances, to give it jurisdiction.

(4) The Manitoba Court being seized of the matter, in the conditions and circumstances described, there was no ground on which an application could successfully be made to the Manitoba Court to stay the administration there because an order had been granted in Ontario. Duplicate proceedings to the same end were not to be encouraged, and no conceivable good purpose would be served by granting the order.

In the circumstances, the granting of an administration order appeared to be a matter of discretion and not *ex debito justitiæ*.

It might well be doubted whether there were assets in Ontario—even if the residue of the estate, which, it was admitted, had been fully realised and converted into money, had been deposited to the credit of a special account in Ontario. It would seem