

and compensation for the services of the administrators as trustees were properly imposed upon that share to the exoneration of the general estate.

Re Smith, 42 Ch. D. 302, referred to.

It was also held that the order should be intituled "In the matter of the Eliza Jane Erskine Church Estate," with a sub-designation of the Athole Church trust, and that jurisdiction was given by 63 Vict. ch. 17, sec. 18 (O.), amending R. S. O. 1897 ch. 129, sec. 40.

The appeal was dismissed without costs.

FALCONBRIDGE, C.J.

DECEMBER 29TH, 1906.

CHAMBERS.

RE SYLVESTER MANUFACTURING CO. v. BROWN.

*Statutes—Retroactivity—6 Edw. VII. ch. 19, sec. 22 (O.)—
Procedure—Division Courts—Contract—Provision for
Determination of Forum for Possible Actions—Prohibition.*

Motion by defendant for prohibition to the 5th Division Court in the county of Victoria.

The plaintiffs brought this action in the 5th Division Court to recover an instalment of the purchase money of a machine sold to defendant. Defendant did not reside nor did the whole cause of action arise in the territory of the 5th Division Court, but by a clause in the contract of sale it was stipulated that any action arising thereout might be brought in that Division Court. The contract was made before the passing of sec. 22 of 6 Edw. VII. ch. 19 (O.), which enacts that "no proviso, condition, stipulation, agreement, or statement which provides for the place of trial of any action . . . shall, subject to the provisions hereinafter set out, be of any force or effect." And clause (1) is that "the provisions of this section shall not be available in any Division Court action or proceeding unless and until the defendant, within the time limited for disputing the plaintiff's claim . . . files . . . a notice disputing the jurisdiction of such Court and an affidavit of the defendant or his agent stating that in his belief there is a