

It is only when the whole cause of action has arisen in some other place that the defendant loses his right to be sued at his place of residence.

I think the Hamilton Court has no jurisdiction, and that prohibition should be awarded, so limited as not to prevent an order being made to transfer the action to the proper Court. This is better than to compel the bringing of a new action.

Costs will follow the event of the motion, and must be paid by the plaintiffs.

MIDDLETON, J., IN CHAMBERS.

DECEMBER 7TH, 1914.

RE AYRE.

Infant—Maintenance—Infant Entitled to Share of Estate under Will—Application of Income—Discretion of Trustees—Application of Father of Infant for Payment of Income to him—Benefit of Infant.

Motion by the father of an infant for an order authorising the trustees under a will to pay to the applicant the income of the infant's share of the estate of the testatrix for the maintenance of the infant.

J. H. G. Wallace, for the applicant.

J. G. O'Donoghue, for the trustees.

F. W. Harcourt, K.C., Official Guardian, for the infant.

MIDDLETON, J.:—By her last will the testatrix, who died on the 13th January, 1914, directed that a fourth interest in her estate should be held by her executors and trustees until her grandson, the infant in question, should arrive at the age of 30 years, and that the income "shall be used by my said executors and trustees for the maintenance and education of my said grandson until he shall have arrived at the age of 21 years." After arriving at the age of 21, and until he is 30, the infant is to receive the income.

The father was not, at the date of the grandmother's death, maintaining the infant, but he has now taken him to his home and is maintaining him. The income from the infant's share is \$36 per month, and this is what the father desires to receive. The executors, on the other hand, take the position that the father is amply able to maintain the child, and that, in the exe-