

MACDONELL V. TEMISKAMING AND NORTHERN ONTARIO RAILWAY
COMMISSION—MASTER IN CHAMBERS—FEB. 21.

Pleading—Statement of Claim — Anticipating Defence—Alternative Cause of Action.]—Motion by the defendants to strike out paragraphs 8 and 9 of the statement of claim as being prematurely pleaded, because anticipating a defence that no certificate had been given by the engineer, and alleging that this had been wrongfully withheld by him in collusion with the defendants. Held, that what is set up in the paragraphs attacked is a substantive cause of action which the plaintiff may be obliged to prosecute and prove before he can recover: Hudson on Building Contracts, 6th ed., vol. 1, pp. 414, 415; Bullen & Leake, 6th ed., p. 326 (n). It is at least better to allow the pleading to remain, according to the dictum of Bowen, L.J., in Knowles v. Roberts, 38 Ch. D. at p. 270. Motion dismissed with costs to the plaintiff in the cause. Strachan Johnston, for the defendants. A. M. Stewart, for the plaintiff.

CRANE V. MOORE—EAMES V. MCCONNELL—MASTER IN CHAMBERS—FEB. 22.

Interpleader—Money in Court—Intervening Claimants—Status—Issue.]—After the disposition of the motion in these cases, noted ante 417, a motion was made by Peacock, Clemson, and Dickey for leave to intervene as claimants in respect of the \$50,000 ordered to be paid into Court. Order made directing an issue between the applicants as plaintiffs and the other claimants as defendants, but in other respects following the previous order, and reserving the question of any further issue, as was done in Nisbet v. Hill, 5 O. W. R. 293, 337, 402. As to the status of the applicants, the Master cited Postlethwaite v. McWhinney, 6 O. L. R. 412. H. E. Rose, K.C., for the applicants. R. McKay, for the plaintiffs in the first action. J. L. Ross, for the plaintiff in the second action. R. H. Parmenter, for some of the defendants.