

agree. The passing of the accounts necessarily involved the consideration of the items by which the trustee claimed to discharge himself, and therefore the sum to be retained by him as compensation for his services; but, even if that were not so, the appointment was in fact for the purpose of fixing the remuneration as well as of passing the accounts.

It is clear also that plaintiff has not any substantial interest in the litigation. Technically he has an interest, because the amount of his liabilities would be decreased by the amount which, if he should succeed, would be struck off the allowance which had been made to the trustee; but the reduction would, in any case, be very small.

It is apparent also that the action is brought not for the bona fide purpose of having the accounts taken in the High Court, but in order to force the trustee to pay a claim which plaintiff makes against him, the liability for which the trustee disputes.

The result of the litigation, too, if unsuccessful, would be to take from the creditors part of the fund which is now available for the payment of their claims, for the trustee would be entitled to be indemnified out of the trust estate for his costs.

While the power of the Court to stay an action in limine, on the ground that it is an abuse of the process, ought doubtless to be exercised only in a clear case, I am of opinion that, in the circumstances of this case, my brother Anglin's order was rightly made.

Appeal dismissed with costs.

BRITTON, J.

JULY 11TH, 1904.

CHAMBERS.

RE ENTERPRISE HOSIERY CO.

*Company—Winding-up—Second Petition—Duty of Second Petitioner to Inform Court of First—Order—Conduct of Proceedings—Costs.*

On 6th June, 1904, the Homer P. Snyder Manufacturing Co. of Little Falls, New York, filed a petition for an order for the winding-up of the above company under the Dominion statute. Notice of presentation was given for 17th June, 1904.

On 13th June Minnie Boucher, a creditor of the company, filed a petition for the same purpose, and on the same day counsel for this petitioner and for the company appeared before BRITTON, J., and an order was made on consent for