

X as Donald Crawford (2) is entitled to; and that Donald Crawford (2) is entitled to one-third or some smaller share. In that action, the question whether Donald Crawford (2) owns any and if so what share in X must be tried, and Thomas Crawford (3) should be allowed to set up in some way every fact which shews that Donald Crawford (2) is not entitled to any share or not to such a large share as may be claimed for him. Certain judgments must be got rid of; an agreement is to be got rid of in order to meet the claim of plaintiff made through Donald Crawford (2); and it is right to counterclaim to get rid of these. If a separate action were brought to get rid of these, Thomas Crawford (3) would be well advised to make plaintiff (1) a party—otherwise upon succeeding in the action he would be met by a claim such as is made by plaintiff in this very action in his attack upon John McLeod (5). Plaintiff would say, "I was not a party to that action, though you knew I claimed a one-half interest in what Donald Crawford (2) was nominally entitled to."

I think the Master was wrong so far as this ground of attack goes.

Then as the question of convenience, I think that it is much more convenient to try out the whole matter of the ownership of this location in one action with everybody before the Court, and I think that, were two separate actions brought, I should consolidate them, or at all events order them to be tried together.

The other grounds set up are not based upon matters which can be decided in this summary way. Though some of the relief sought may not be such as can be regularly claimed (as to which I express no opinion), and though some may be inartistically asked, I am clear that the pleading as a whole should not have been struck out.

The appeal will be allowed with costs here and below to defendant Thomas Crawford (3) in any event of the action.