

then stood. Since then, the pleadings have been amended by both parties. The Master has taken the view that, upon this record, the applicant is entitled to the commission.

I have considered the record with much care, and have consulted one of the Judges sitting in the Divisional Court which heard the former application. I cannot satisfy myself that the commission is really necessary; but, at the same time, it is impossible to say with certainty that some necessity may not be revealed when the case actually comes to trial. I have, therefore, concluded to give to the plaintiffs their election between two courses; and in doing so I am much influenced by the fact that the action is in the name of an insolvent firm, being brought under the authority of the receiver at the instance of one or more creditors, against the wishes of another creditor or other creditors.

Under these circumstances, the plaintiffs may have the commission if they give security in the sum of \$200, by bond or cash deposit of that amount, for the costs of the commission; the question of the necessity of the commission being reserved to the trial. Or, if the plaintiffs so elect, the order for commission will be vacated, and the motion will stand until after the facts are developed at the hearing, when, if the trial Judge finds that it is necessary to have a commission, the plaintiffs are to be at liberty to have the evidence sought taken under a commission, and the defendant must assent to the case then standing over for judgment until the evidence is received.

The precise terms of this alternative may be as finally settled in the case of *Macdonald v. Sovereign Bank of Canada*, ante 1006, where a similar order was made.

MIDDLETON, J., IN CHAMBERS.

MAY 7TH, 1912.

BROWN v. ORDE.

Discovery—Examination of Plaintiff—Relevancy of Questions—Slander—Unfitness for Public Office—Innuendo—Questions as to Character and Standing.

Appeal by the plaintiff from an order of MACTAVISH, Local Judge at Ottawa, directing the plaintiff to attend and answer certain questions which he refused to answer upon his examination for discovery.

J. King, K.C., for the plaintiff.

H. M. Mowat, K.C., for the defendant.