

are practically the same persons who are shareholders at this time; that directions will be asked for on inquiry, and that the moneys, if any, improperly paid be refunded or set off.

The material shews that at the date of the winding-up order there were 126 permanent shareholders and that during the last 6 years the changes in the ownership of permanent shares have numbered 48. I presume this means transfers.

The defendant Wortman, upon an affidavit alleging that he desired to obtain relief over against the shareholders with respect to money paid to them individually, that Moorehouse and Watson are two shareholders, and that he (Wortman) desired to obtain relief over against them to the extent of the moneys paid to them, procured leave to serve a third party notice, and served the same upon Moorehouse and Watson. The affidavit also states that if these third parties appeared he (Wortman) proposed to apply for an order directing them to represent the class of shareholders.

The Master, upon the application of the defendants, made the usual order for trial of the third party issue; and from this both the third parties and the plaintiffs appeal. The Master thought the course pursued might effect a consolidation of 180 possible actions, but, of course, this could not be so unless, as he states, the defendants should succeed in obtaining an order for representation of the other shareholders by the two sought to be brought in. No such order has been applied for, and I do not think any such order could be made. So, as matters stand, if the third party issues are tried as ordered, it will dispose only of the liability of two shareholders, and leave 178 claims to be disposed of in some other way.

It will be observed that the claim for indemnity applies only to one of the 5 separate and distinct causes of action alleged in the statement of claim. I do not think this is the sort of case intended to be covered, . . . by Rule 209. The right of defendants to recover from the various shareholders the dividends paid to them, if any such right exists, does not arise by virtue of a recovery by plaintiffs from defendants of these same moneys—and, unless the right against the shareholders accrues to defendants by reason of a recovery at the instance of plaintiffs, it cannot be an indemnity.