persons who have a common right which is invaded by a common enemy, are entitled to join in attacking that common enemy in respect of that common right, although they may have different rights *inter se*"—and, therefore, no doubt, in some cases different remedies. This leads up to paragraph 2, which was the point most strenuously pressed.

It was said that here there was no transaction or series of transactions within the meaning of Consolidated Rule 185, as shewn by *Mason* v. *Grand Trunk Rw. Co.*, 8 O. L. R. 28. There it was said by Anglin, J., that several plaintiffs can not join "where the only connection between their several and distinct grievances is the motive or purpose by which they suggest that the defendant was actuated.

There, however, the learned Judge approved of what was said on this point by Lord Macnaghten in *Bedford* v. *Ellis*, [1901] A. C. 1, 12—and a perusal of that case seems to me conclusive against the present motion on this point.

There it was said by respondents' counsel, p. 5: "The claims all arise out of the same transaction or series of transactions, "the management of the market." In this case it is the alleged mismanagement of the defendants' factory.

Lord Macnaghten said that this question was one "of very small importance." The appellant if successful "would gain nothing by success. He would only lose to some extent security for costs. The joinder of the individual plaintiffs in one action cannot embarrass or delay the trial." And in conclusion he says: "Whether I am right in this or not, it seems to me that the question, if it be a question, ought not to be disposed of adversely to the plaintiffs at this stage of the action." The motion on this ground, therefore, fails at present.

As to paragraph 4, it does not seem in accordance with the present practice to strike out any part of the first clause of paragraph 4 of the statement of claim. If Mr. Smyth has no "property rights" which are injuriously affected this will appear at the trial and be dealt with accordingly. But to that tribunal it belongs, and there it must be sent. Nor does there appear to be any embarrassment to defendants in the statement, that on the last occasion when Mr. Smyth requested defendants to abate the nuisance, their answer was that they "could do nothing further towards stopping the nuisance." This if not denied or explained might be of weight in deciding the Court to grant a remedy by way of