

If it is objected to this that plaintiff is dominus litis, the answer is to be found in the decision of the Court of Appeal in *Amon v. Bobbett*, 22 Q. B. D. 543, where Bowen, L.J., at p. 548, said of a counterclaim: "It is more than a defence, it is in the nature of a proceeding in a cross-action, and when necessary for the purposes of justice it must be so treated. A counterclaim is therefore to be treated for all purposes for which justice requires it to be treated as an independent action."

Here, so far as the counterclaim is concerned, there is a sufficient preponderance of convenience in favour of the trial at Goderich—and the order will go accordingly with costs in the cause.

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ANGLIN, J.

MAY 21ST, 1906.

WEEKLY COURT.

LIVINGSTON v. LIVINGSTON.

*Reference—Local Master—Employment of, as Solicitor for Party, pending Reference—Disqualification—Setting aside all Proceedings—Costs.*

Motion by defendants to set aside the reference to the local Master at Berlin and all proceedings thereupon had before him, on the ground of the acceptance by the firm of solicitors in which the local Master was a partner of a retainer from defendant for some non-contentious business in the Surrogate Court of Waterloo.

The action was brought for the winding-up of the partnership which subsisted between the late John Livingston, who died on 21st May, 1896, and whose executors were the plaintiffs, and his brother, James Livingston, the defendant. The judgment of reference was pronounced on 27th March, 1902. The proceedings before the Master had at the time of the motion consumed nearly 100 hours, on 17 days, and involved an attendance by him at the city of New York. The accounts were taken by two expert accountants. Upon all points on which they agreed, their conclusions were by agreement accepted. Upon a number of points on which the parties were at issue, the reference proceeded before the Master. He took voluminous evidence, and on or about 9th