

from the order may be entertained in either division, although one of the execution creditors has been barred by the order, and there is no appeal on that ground.

*A. D. Cartwright* for the claimant.

*C. Millar* for the plaintiff

Q.B. Div'l Court.]

[March 3.

HOGABOOM *v.* GILLIES.

*Interpleader—Sheriff—Security for goods seized—Failure of—Barring claimant.*

The wife of an execution debtor had in her possession certain goods, which were seized by the sheriff under the execution against her husband and claimed by her. Upon the sheriff's application, an interpleader order was made in the usual terms, and the claimant, having given security thereunder by an approved bond for the forthcoming of the goods, the sheriff withdrew from possession. Before the interpleader issue came to trial, the goods were sold for taxes, and the surety on the claimant's bond became insolvent.

*Held*, that the security had nothing to do with the determination of the claimant's rights, but only with the preservation of the property pending the litigation; and the court had no right to make an order barring her claim in default of her giving fresh security.

*J. A. Macdonald* for the claimant.

*W. K. Riddell* for the execution creditor.

Q.B. Div'l Court.]

[March 3.

TINNING *v.* BINGHAM.

*Parties—Adding new plaintiffs Rule 445 "Action commenced" "Real matter in dispute"—New cause of action.*

The original plaintiff was a daughter of a deceased insured, the defendants were another daughter and two insurance companies, and the writ of summons was indorsed with a claim to have the assignment of two policies by the deceased to the defendant daughter set aside. After appearance by the defendant daughter, the administrator of the estate of the deceased was added as a plaintiff, as such administrator, by an *ex parte* order obtained by the original plaintiff upon no other material than the administrator's consent. The plaintiffs then delivered a statement of claim alleging fraud and undue influence in the obtaining of the assignment, and also alleging that, at the time of the assignment, the deceased was largely indebted and unable to pay his creditors in full, and that the assignment was a fraud upon his creditors; and the plaintiff daughter claimed to have the assignment set aside as being obtained by fraud, and the plaintiff administrator to have it set aside as being a fraud on the creditors.

After the action had been entered for trial, the plaintiffs applied, under Rule 445, for an order to add certain creditors of the deceased as plaintiffs, upon an affidavit of the plaintiff's solicitor, which stated that the plaintiff administrator was appointed at the request of the creditors, and was prosecuting the action