taken by Bryce, by garnishee process, to recover from one Hughes the garnishee, a sum amounting, with costs of the motion, to $101. Execution issued, for the above amount, against Hughes, and certain goods were seized as those of Hughes', which were claimed by the plaintiff Beaty herein. An interpleader issue was directed, in which Bryce was plaintiff and Beaty was defendant, and Beaty failed to establish his claim to the goods.

On an application under the Interpleader Act, R. S. O. cap. 54, as to costs, the Master in Chambers held that the plaintiff Bryce was entitled to costs on the higher scale, as the sheriff could not, before the equity jurisdiction of the County Court was abolished in 1868, have gone to the County Court to interplead. He considered that it was his duty to decide as to the right to costs only, and that the taxing officer, when the matter came before him, was the proper person to decide as to the scale on which such costs should be taxed.

Allan Cassels, for defendant Beaty, cited R. S. O. cap. 54; *Gibb* v. *Gibb*, 6 W. R. 104; Morgan & Davy, Chy. Costs; Rules 428, 445, 511, 512. *Wardrope*, contra.

[This decision has been reversed by the Chancellor on appeal—ED. C. L. J.]

Mr. Dalton, Q.C.] [June 6.

LUCAS V. FRASER.

Service—Costs—Rule 324.

A motion for judgment under Rule 324, O.J.A. It appeared that a person of the same name as defendant had been served, by mistake, for the defendant, and that he had so informed the bailiff who served him.

Held, that it was proper that the party so served should appear on this motion, on the principle that he feared an order might be made against him, and his costs were allowed at $800.

Aylesworth, for the motion.

Langton, contra.

Cameron, J.] [Sept. 18.

TAYLOR V. BRADFORD.

Consolidation of actions—Rule 395, O. J. A.

A motion to have this action consolidated with an action brought by the defendant, in the Chancery Division, against the plaintiffs, in which they had set up, by way of counter-claim, the same cause of action substantially as was set forth in their statement of claim in this action, or to have the action stayed till the other should be determined.

CAMERON, J., *held*, that though, on the facts presented, the case was not technically one within the terms of Rule 395, O. J. A., because the plaintiffs had not brought two actions, etc., yet there was an inherent right in the Court to prevent an undue use of its process.

Order made to stay proceedings, costs reserved.

Allan Cassels, for the motion.

J. B. Clarke, contra.

Mr. Dalton, Q.C.] [Dec. 16.

IMPERIAL BANK OF CANADA V. BRITTON.

Endorsement—Judgment—Rule 80, O. J. A.

A motion for judgment under Rule 80.

The endorsement on the writ was as follows:—The plaintiff's claim, $2,000, being the amount of the defendant's over drawn account with the plaintiff's bank on the 18th September, 1882.

Held, sufficient.

Shepley, for the motion.

Howells, (O'Donohoe, Q.C.) contra.

Boyd, C.] [Dec. 18.

RE ROBERTSON AND DAGANEAU.

Vendor and purchaser—R. S. O. cap. 109.

This was an application, under R. S. O. cap. 109, by a vendor asking the opinion of the Court on certain objections taken by the purchaser to the vendor's title to the land in question.

The purchaser filed affidavits disputing the validity of his contract to purchase.

BOYD, C., declined to follow *Re Henderson* and *Spencer*, 8 P. R. 402, holding that the Act (R. S. O. cap. 109) was intended to provide for a simple case where there was no dispute as to the validity of the contract, but the parties wished the opinion of the Court on a question affecting the title, and the Court ought not to decide on the validity of the title until it was decided that the contract was binding.

Small, for the vendor.

Atkinson and *H. Cassels*, contra.

Followed Mallon v. Middlemore, 10 Pr. 228.