

MCMILLAN V. THORP—DIVISIONAL COURT—OCTOBER 28TH.

Partnership—Interpleader.]—This was an appeal by the plaintiff (claimant), from the judgment of the County Court of Wellington in favour of the defendants (execution creditors) upon an interpleader issue as to a car-load of potatoes seized by the defendants under execution against the goods of one McMillan, the father and partner of the plaintiff. The Court (BOYD, C., MAGEE and LATCHFORD, JJ.), held, upon the facts, reversing the finding of the County Court Judge, that the execution debtor, the father, had no interest in the property seized, the partnership agreement between the father and son being a peculiar one, by which the son was to be the owner of all the assets and to have all the profits, and the father was to get his board, clothing, and reasonable pocket money. There was, as the Court found, no element of fraud which should induce the making of a colourable association between father and son to be regarded as a subterfuge or cloak or as having no real existence. Appeal allowed with costs. C. R. McKeown, K.C., for plaintiff. J. J. Drew, K.C., for defendants.
